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Vol. 56

No. 119

# Register

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Thursday  
June 20, 1991

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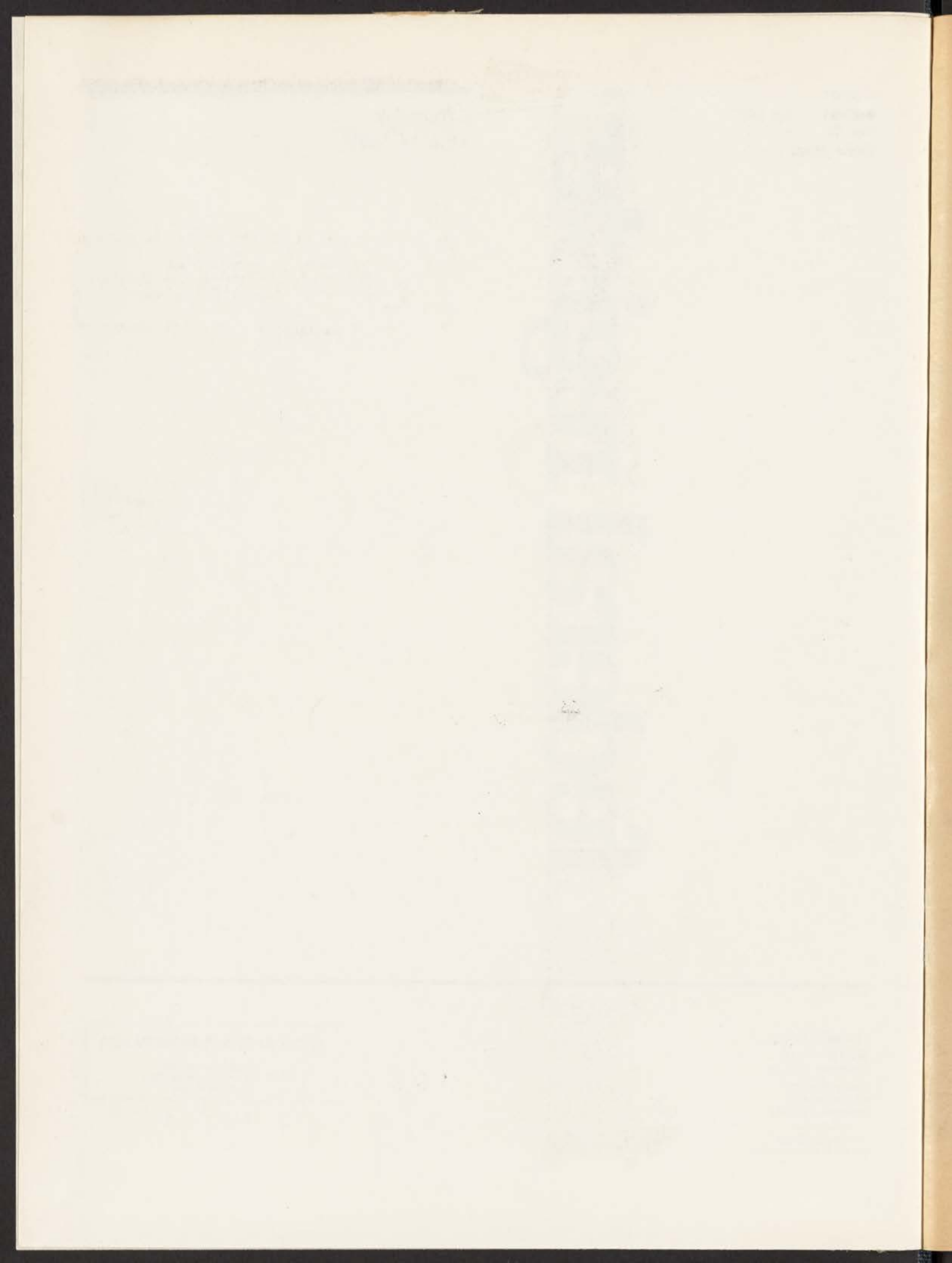
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# Federal Register

Thursday  
June 20, 1991

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For information on briefings in Washington, DC, and New Orleans, LA, see announcement on the inside cover of this issue.





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## THE FEDERAL REGISTER

### WHAT IT IS AND HOW TO USE IT

- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
  2. The relationship between the Federal Register and Code of Federal Regulations.
  3. The important elements of typical Federal Register documents.
  4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

### WASHINGTON, DC

- WHEN:** July 2, at 9:00 am
- WHERE:** Office of the Federal Register,  
First Floor Conference Room,  
1100 L Street NW., Washington, DC
- RESERVATIONS:** 202-523-5240

### NEW ORLEANS, LA

- WHEN:** July 23, at 9:00 am
- WHERE:** Federal Building, 501 Magazine St.  
Conference Room 1120,  
New Orleans, LA
- RESERVATIONS:** Federal Information Center  
1-800-366-2998



# Contents

Federal Register

Vol. 56, No. 119

Thursday, June 20, 1991

## Agency for Toxic Substances and Disease Registry

### NOTICES

Grants and cooperative agreements; availability, etc.:  
Human exposure to hazardous substances and adverse health outcomes, relationship; pilot and epidemiologic studies, 28398

## Agricultural Marketing Service

*See also* Packers and Stockyards Administration

### RULES

Marketing orders; expenses and rates of assessment, 28307

## Agriculture Department

*See also* Agricultural Marketing Service; Farmers Home Administration; Forest Service; Packers and Stockyards Administration

### NOTICES

Agency information collection activities under OMB review, 28368

## Antitrust Division

### NOTICES

Competitive impact statements and proposed consent judgments:

Brown University et al.; correction, 28415  
National cooperative research notifications:  
Amrep, Inc., 28415  
Bell Communications Research, Inc., 28415  
MCNC, 28416  
Petroleum Environmental Research Forum, 28416  
Reckitt & Colman Household Products, 28416  
UNIX International, Inc., 28417

## Centers for Disease Control

### NOTICES

Meetings:

Chronic Disease Prevention and Control National Conference, 28401  
Diabetes Translation and Community Control Programs Technical Advisory Committee, 28401

## Coast Guard

### PROPOSED RULES

Merchant marine officers and seamen:  
User fees for marine licensing, certification of registry, and merchant marine documentation, 28448

### NOTICES

Meetings:

New York Harbor Traffic Management Advisory Committee, 28437

## Commerce Department

*See also* Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration

### NOTICES

Committees; establishment, renewal, termination, etc.:  
Task Force for Designing the Year 2000 Census and Census-Related Activities for 2000—2009 Advisory Committee, 28369

## Community Services Office

### NOTICES

Grants and cooperative agreements; availability, etc.:  
Discretionary grants program; correction, 28402

## Comptroller of the Currency

### RULES

National banks:

Lease financing transactions, 28314

## Defense Department

### RULES

Acquisition regulations:

Contract modification and termination; substantial impact on employment; notification to Labor Secretary  
Correction, 28345

## Energy Department

*See also* Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department

### NOTICES

Atomic energy agreements; subsequent arrangements, 28373  
Natural gas exportation and importation:  
Bonus Gas Processors, Inc., 28394

## Environmental Protection Agency

### RULES

Air quality implementation plans; approval and promulgation; various States:  
North Dakota, 28322

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

M-One Plus Bioinsecticide, 28325  
MVP Bioinsecticide, 28326

### PROPOSED RULES

Hazardous waste:

State underground storage tank program approvals—  
New Hampshire; correction, 28353

### NOTICES

Toxic and hazardous substances control:  
Compliance audit program (Section 8(e)) modification; registration and agreement, 28458

## Executive Office of the President

*See* National Education Goals Panel; Presidential Documents

## Export-Import Bank

### NOTICES

Meetings:

Advisory Committee; correction, 28397

## Family Support Administration

*See* Community Services Office

## Farmers Home Administration

### RULES

Program regulations:

Emergency disaster assistance, 28310

Rural housing—

Section 502 loan policies, procedures, and authorizations, 28309



**PROPOSED RULES**

## Program regulations:

- Community programs guaranteed loans, 28351
- Construction and repair—
  - Rural development, 28350

**Federal Aviation Administration****RULES**

## Airworthiness directives:

- McDonnell Douglas, 28318

**Federal Election Commission****NOTICES**

- Meetings; Sunshine Act, 28439

**Federal Emergency Management Agency****RULES**

## Flood elevation determinations:

- Arizona et al., 28328

**Federal Energy Regulatory Commission****NOTICES**

- Electric rate, small power production, and interlocking directorate filings, etc.:
  - Arizona Public Service Co. et al., 28374
  - SEMASS Partnership et al., 28375
- Environmental statements; availability, etc.:
  - Central Maine Power Co., 28377
  - Puerto Rico Electric Power Authority, 28377
- Natural gas certificate filings:
  - United Gas Pipe Line Co. et al., 28383
  - Viking Gas Transmission Co. et al., 28388
- Natural Gas Policy Act:
  - Self-implementing transactions, 28377
- Applications, hearings, determinations, etc.:*
  - Granite State Gas Transmission, Inc., 28393
  - Southern Natural Gas Co., 28393
    - (2 documents)
  - Texas Eastern Transmission Corp., 28393

**Federal Highway Administration****NOTICES**

- Environmental statements; notice of intent:
  - Cooper Landing, AK, 28437

**Federal Maritime Commission****PROPOSED RULES**

- Maritime carriers in foreign commerce:
  - Common carriers and conferences; payments publication and filing in tariffs and service contracts; discontinuance, 28361

**NOTICES**

- Agreements; additional information requests:
  - P&O Containers, Ltd., et al., 28397
- Agreements filed, etc., 28397
- Casualty and nonperformance certificates:
  - Star Clippers, Inc., et al., 28398
    - (2 documents)
- Meetings; Sunshine Act, 28439

**Federal Reserve System****NOTICES**

- Meetings; Sunshine Act, 28439

**Fish and Wildlife Service****RULES**

## Endangered and threatened species:

- Winged mapleleaf freshwater mussel, 28345

**PROPOSED RULES**

- Endangered and threatened species:
  - Marbled murrelet, 28362

**Foreign-Trade Zones Board****NOTICES***Applications, hearings, determinations, etc.:*

## Indiana—

- Coachmen Recreational Vehicle Co.; compact recreational vehicle plant, 28370

## Tennessee—

- Nissan Motor Manufacturing Corp. USA; automobile and pickup truck manufacturing, 28370

**Forest Service****NOTICES**

- Environmental statements; availability, etc.:
  - Tongass National Forest, AK, 28368

**Health and Human Services Department**

- See* Agency for Toxic Substances and Disease Registry; Centers for Disease Control; Community Services Office; Health Care Financing Administration; National Institutes of Health; Public Health Service

**Health Care Financing Administration****PROPOSED RULES**

## Medicare:

- Claims for administrative appeals and judicial review, 28353

**NOTICES**

- Organization, functions, and authority delegations, 28402

**Health Resources and Services Administration***See* Public Health Service**Hearings and Appeals Office, Energy Department****NOTICES**

- Decisions and orders, 28394

**Immigration and Naturalization Service****RULES**

## Immigration:

- Alien classified as relative of U.S. citizen or preference immigrant; classification petitions; service officers powers and duties, 28311

**Interior Department**

- See also* Fish and Wildlife Service; Land Management Bureau; National Park Service; Surface Mining Reclamation and Enforcement Office

**NOTICES**

- Central Arizona Project, AZ; water allocation and service contracting, 28404

**International Trade Administration****NOTICES**

## Antidumping:

- Steel wire rope from—
  - Mexico, 28370

## Export trade certificates of review, 28371

*Applications, hearings, determinations, etc.:*

- Wake Forest University et al., 28371

**Interstate Commerce Commission****NOTICES**

## Rail carriers:

- Cost recovery procedures—
  - Adjustment factor, 28412



Railroad operation, acquisition, construction, etc.:  
Wisconsin Central Ltd., 28413

#### Justice Department

See Antitrust Division; Immigration and Naturalization Service; Parole Commission

#### Land Management Bureau

##### NOTICES

Classification of public lands:

Arizona, 28408

Motor vehicles; off-road vehicle designations:

Utah, 28408

Opening of public lands:

Washington, 28409

Realty actions; sales, leases, etc.:

California, 28409, 28410

(3 documents)

Colorado, 28411

Nevada; correction, 28411

Withdrawal and reservation of lands:

Idaho, 28412

#### Libraries and Information Science, National Commission

See National Commission on Libraries and Information Science

#### Merit Systems Protection Board

##### NOTICES

Research agenda, 1992; availability, 28418

#### National Aeronautics and Space Administration

##### NOTICES

Meetings:

Space Science and Applications Advisory Committee, 28419

Wage Committee, 28419

#### National Commission on Libraries and Information Science

##### NOTICES

Meetings:

White House Conference on Library and Information Services Advisory Committee, 28420

#### National Education Goals Panel

##### NOTICES

Meetings, 28420

(2 documents)

#### National Highway Traffic Safety Administration

##### NOTICES

Motor Vehicle Theft Law Enforcement Act of 1984; insurer reporting requirements, 28438

#### National Institute for Occupational Safety and Health

See Centers for Disease Control

#### National Institutes of Health

##### NOTICES

Meetings:

National Cancer Institute, 28403

(2 documents)

#### National Oceanic and Atmospheric Administration

##### RULES

Fishery conservation and management:

Atlantic swordfish

Correction, 28349

##### NOTICES

Fishery conservation and management:

Atlantic mackerel, squid, and butterfish, 28372

#### National Park Service

##### NOTICES

Environmental statements; availability, etc.:

Natchez National Historical Park, MS, 28412

Meetings:

Gulf Islands National Seashore Advisory Commission, 28412

#### Nuclear Regulatory Commission

##### NOTICES

Meetings:

Reactor Safeguards Advisory Committee et al.—

Proposed schedule, 28420

Reports; availability, etc.:

Nuclear power plants—

Reactor coolant pump seal failure, 28422

*Applications, hearings, determinations, etc.:*

Connecticut Yankee Atomic Power Co., 28423

Long Island Lighting Co., 28424

Ohio Edison Co. et al., 28426

#### Packers and Stockyards Administration

##### NOTICES

Stockyards; posting and deposting:

Sandy Point Horse & Tack Auction, GA, et al., 28369

#### Parole Commission

##### NOTICES

Organization, functions, and authority delegations:

Western, North Central, and South Central Regions, 28417

#### Personnel Management Office

##### RULES

Pay under General Schedule and transportation expenses, 28307

##### PROPOSED RULES

Child support and/or alimony; garnishment orders; processing, 28350

#### Postal Rate Commission

##### NOTICES

Meetings; Sunshine Act, 28439

#### Presidential Documents

##### ADMINISTRATIVE ORDERS

Cambodia, humanitarian assistance; authority delegation (Memorandum of June 10, 1991), 28465

##### EXECUTIVE ORDERS

European Bank for Reconstruction and Development and European Space Agency; amendments (EO 12766), 28463

#### Public Health Service

See also Agency for Toxic Substances and Disease Registry; Centers for Disease Control; National Institutes of Health

##### NOTICES

Meetings:

Scientific Integrity Advisory Committee, 28404

#### Resolution Trust Corporation

##### NOTICES

State and local property taxes; payment; policy statement, 28427



**Securities and Exchange Commission****RULES****Securities:**

Securities underlying market baskets; registration exemption, 28320

**NOTICES**

Meetings; Sunshine Act, 28439

Self-regulatory organizations; proposed rule changes:

New York Stock Exchange, Inc., 28428

*Applications, hearings, determinations, etc.:*

Adirondack Income Shares, Inc., 28429

Allegheny Income Shares, Inc., 28430

Boston Company Index & Blue Chip Trust, 28430

Humboldt Income Shares, Inc., 28431

**Small Business Administration****NOTICES**

Disaster loan areas:

Louisiana et al., 28432

Mississippi et al., 28432

Intergovernmental review of agency programs and activities, 28432, 28433

(2 documents)

Meetings; regional advisory councils:

Missouri, 28436

**State Department****NOTICES**

Meetings:

U.S. Government International Broadcasting, Presidential Task Force, 28436

**Surface Mining Reclamation and Enforcement Office****RULES**

Initial and permanent regulatory programs:

Surface coal mining and reclamation operations—

Service of documents, 28442

**Toxic Substances and Disease Registry Agency**

See Agency for Toxic Substances and Disease Registry

**Transportation Department**

See Coast Guard; Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration

**Treasury Department**

See Comptroller of the Currency

---

**Separate Parts In This Issue****Part II**

Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 28442

**Part III**

Department of Transportation, Coast Guard, 28446

**Part IV**

Environmental Protection Agency, 28458

**Part V**

The President, 28463

---

**Reader Aids**

Additional information, including a list of public

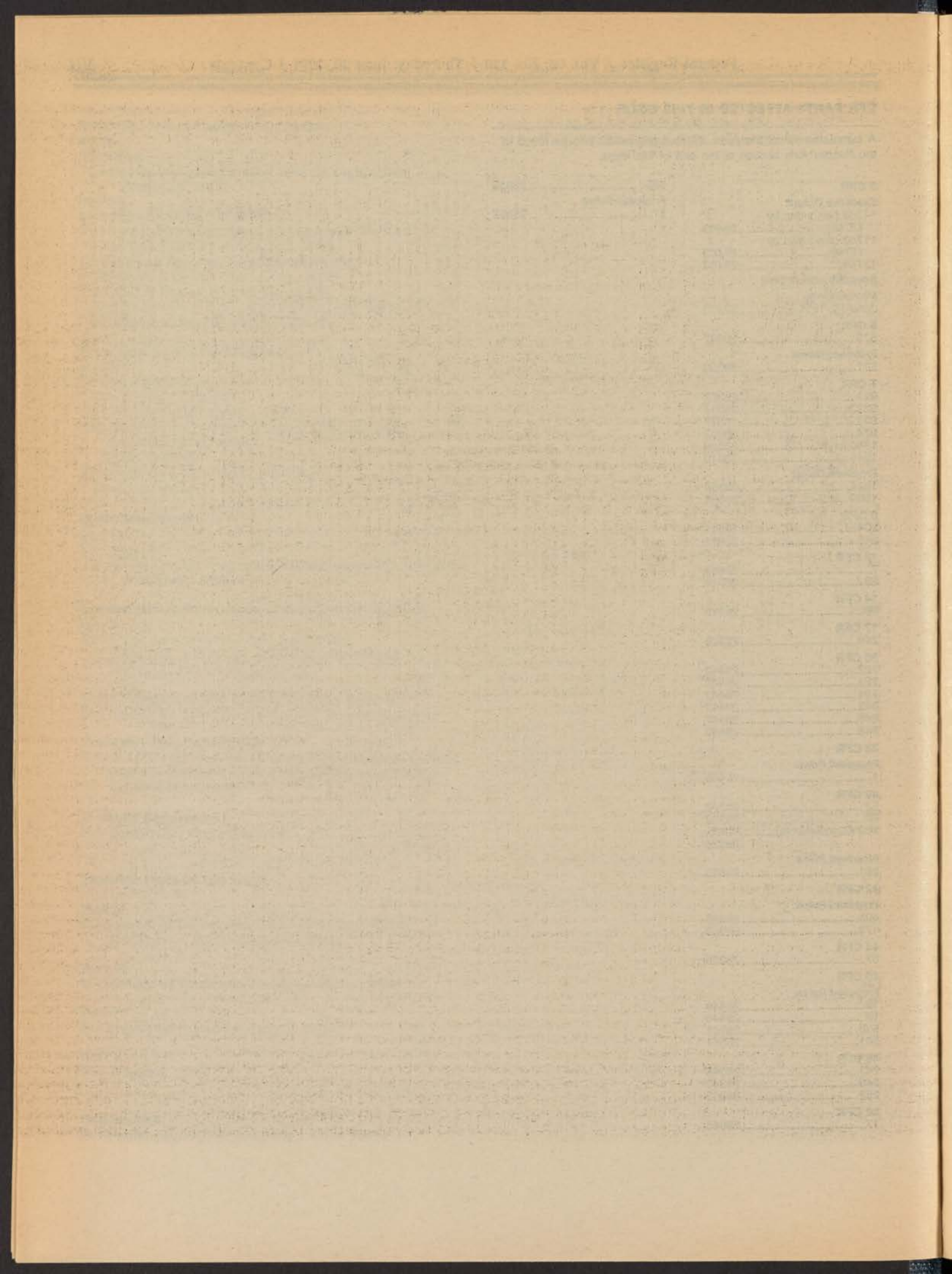
laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue

**CFR PARTS AFFECTED IN THIS ISSUE**

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

<b>3 CFR</b>	630.....	28349
<b>Executive Orders:</b>	<b>Proposed Rules:</b>	
11269 (amended by 12766).....	17.....	28362
11760 (amended by 12766).....		
12766.....		
<b>Administrative Orders:</b>		
<b>Memorandums:</b>		
June 10, 1991.....		28465
<b>5 CFR</b>		
572.....		28307
<b>Proposed Rules:</b>		
581.....		28350
<b>7 CFR</b>		
921.....		28307
922.....		28307
923.....		28307
924.....		28307
1944.....		28309
1945.....		28310
<b>Proposed Rules:</b>		
1924.....		28350
1980.....		28351
<b>8 CFR</b>		
204.....		28311
245.....		28311
<b>12 CFR</b>		
7.....		28314
23.....		28314
<b>14 CFR</b>		
39.....		28318
<b>17 CFR</b>		
240.....		28320
<b>30 CFR</b>		
722.....		28442
723.....		28442
724.....		28442
843.....		28442
845.....		28442
846.....		28442
<b>33 CFR</b>		
<b>Proposed Rules:</b>		
1.....		28448
<b>40 CFR</b>		
52.....		28322
60.....		28322
180 (2 documents).....		28325, 28326
<b>Proposed Rules:</b>		
281.....		28353
<b>42 CFR</b>		
<b>Proposed Rules:</b>		
405.....		28353
473.....		28353
<b>44 CFR</b>		
67.....		28328
<b>46 CFR</b>		
<b>Proposed Rules:</b>		
10.....		28448
12.....		28448
580.....		28361
581.....		28361
<b>48 CFR</b>		
243.....		28345
249.....		28345
252.....		28345
<b>50 CFR</b>		
17.....		28345







# Rules and Regulations

Federal Register

Vol. 56, No. 119

Thursday, June 20, 1991

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 572

RIN 3206-AE34

### Expanded Authority To Pay Travel Expenses for New Appointments and Interviews

**AGENCY:** Office of Personnel Management.

**ACTION:** Final regulations.

**SUMMARY:** The Office of Personnel Management (OPM) is issuing final regulations to implement provisions of the Federal Employees Pay Comparability Act of 1990 (FEPCA). The Act permits agencies to pay candidates' travel expenses for interviews and new appointees' travel expenses to the first post of duty for any position.

**EFFECTIVE DATE:** July 22, 1991.

**FOR FURTHER INFORMATION CONTACT:** Tracy E. Spencer (202) 606-0960 or FTS 266-0960.

**SUPPLEMENTARY INFORMATION:** FEPCA amended 5 U.S.C. 5723 to remove the requirement that a shortage of candidates exist before agencies may pay new appointees' travel and transportation expenses and to provide explicit authority for agencies to pay candidates' travel expenses to report for interviews.

Interim regulations implementing these provisions were published on February 14, 1991 (56 FR 6204). Those regulations removed all instructions for determining shortages but retained language reinforcing agency discretion in deciding whether to pay relocation or interview expenses for any position.

We received only one comment on the interim regulations. The General Services Administration (GSA), which is responsible for regulating actual payments under 5 U.S.C. 5723, suggested

that we include a cross-reference to GSA's Federal Travel Regulations (FTR) (41 CFR chapters 301-304). That suggestion has been adopted. With that change, we are adopting the interim regulations as final.

### Executive Order 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of Executive Order 12291, Federal Regulation.

### Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only the procedures used to appoint certain Federal employees.

### List of Subjects in 5 CFR Part 572

Administrative practice and procedures, Government employees.

Office of Personnel Management.

Constance Berry Newman,  
Director.

Accordingly, OPM's interim regulations under part 572 published February 14, 1991, at 56 FR 6204, are adopted as final with the following changes:

### PART 572—TRAVEL AND TRANSPORTATION EXPENSES; NEW APPOINTEES AND INTERVIEWS

1. The authority for part 572 continues to read as follows:

Authority: 5 U.S.C. 5706b and 5723.

2. Section 572.101 is revised to read as follows:

#### § 572.101 Agency authority.

(a) An agency may determine which positions qualify for the payment of a new appointee's travel expenses to the first post of duty. Payment of travel and transportation expenses will be in accordance with the Federal Travel Regulation (FTR) (41 CFR chapters 301-304).

(b) An agency may determine which interviewees are eligible for payment of pre-employment interview travel expenses. Payment of these travel expenses will be in accordance with the FTR.

[FR Doc. 91-14753 Filed 6-19-91; 8:45 am]

BILLING CODE 6325-01-M

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Parts 921, 922, 923 and 924

[Docket No. FV-91-260FR]

### Expenditures and Assessment Rates for Specified Marketing Orders for the 1991-92 Fiscal Year

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule authorizes expenditures and establishes assessment rates for the 1991-92 fiscal year (April 1-March 31) under Marketing Order Nos. 921, 922, 923 and 924. These expenditures and assessment rates are needed by the marketing committees established under these marketing orders to pay marketing order expenses and collect assessments from handlers to pay those expenses. This action will enable these committees to perform their duties and the orders to operate.

**EFFECTIVE DATE:** April 1, 1991 through March 31, 1992 for each order.

**FOR FURTHER INFORMATION CONTACT:** Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone: (202) 475-3918.

**SUPPLEMENTARY INFORMATION:** This final rule is issued under Marketing Agreement and Marketing Order Nos. 921 (7 CFR part 921) regulating the handling of fresh peaches grown in designated counties in Washington; 922 (7 CFR part 922) regulating the handling of apricots grown in designated counties in Washington; 923 (7 CFR part 923) regulating the handling of cherries grown in designated counties in Washington; and 924 (7 CFR part 924) regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon. These agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This final rule has been reviewed by the U.S. Department of Agriculture



(Department) in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 70 handlers of Washington peaches, 30 handlers of Washington apricots, 85 handlers of Washington cherries, and 35 handlers of Washington-Oregon prunes subject to regulation under their respective marketing orders. In addition, there are about 390 Washington peach producers, 190 Washington apricot producers, 1,115 Washington cherry producers and 375 Washington-Oregon prune producers in their respective production areas. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$3,500,000. The majority of these handlers and producers may be classified as small entities.

These marketing orders, administered by the Department, require that assessment rates for a particular fiscal year shall apply to all assessable fresh fruit handled from the beginning of such year. An annual budget of expenses is prepared by each marketing committee and submitted to the Department for approval. The members of these committees are handlers and producers of the regulated commodities. They are familiar with the committees' needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by each committee is derived by dividing anticipated expenses by the tons of

fresh fruit expected to be shipped under the order. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committees' expected expenses. Recommended budgets and rates of assessment are usually acted upon by the committees shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the committees will have funds to pay their expenses.

A proposed rule concerning the 1991-92 budget was published in the *Federal Register* (56 FR 14318, April 9, 1991), with a comment period ending May 31, 1991. Comments were received from the Washington Fresh Peach Marketing Committee (WPMC), the Washington Apricot Marketing Committee (WAMC), the Washington Cherry Marketing Committee (WCMC), and the Washington-Oregon Fresh Prune Marketing Committee (WOPMC). The committees met in late May to review crop and marketing conditions. On the basis of these reviews, each committee filed comments unanimously recommending changes in their expenditure and assessment rate levels from those contained in the proposed rule. The recommended changes are based on the more recent crop and expenditure estimates. These changes are incorporated in the final rule.

The expenditure amounts and assessment rates contained in the proposed rule were issued on the recommendations of the Stone Fruit Executive Committee (SFEC) in March, based on the best information available at that time. The SFEC is made up of officers of the marketing committees established under these orders, and is authorized to recommend the budgets early in the season.

The WPMC met May 22, 1991 and unanimously recommended 1991-92 expenditures of \$21,356 and an assessment rate of \$2.00 per ton of assessable peaches shipped under M.O. 921. This compares with expenditures of \$21,394 and an assessment rate of \$3.00 contained in the proposed rule. The lower expenditures reflected a reduction in auditing costs. The recommended \$2.00 assessment rate is based on revised estimated 1991-92 shipments of 7,875 tons of assessable peaches. This would generate income of \$15,750 and result in a reduction in the WPMC's reserve fund. The WPMC's reserves are adequate to cover the anticipated deficit for 1991-92. Budgeted expenditures were \$18,841 and the assessment rate was \$1.00 per ton in 1990-91.

The WAMC met May 22, 1991 and

unanimously recommended 1991-92 expenditures of \$7,723 and an assessment rate of \$1.50 per ton of assessable apricots shipped under M.O. 922. This compares with expenditures of \$7,760 and an assessment rate of \$4.00 contained in the proposed rule. The lower expenditures reflect a reduction in auditing costs. The recommended \$1.50 assessment rate is based on revised estimated 1991-92 shipments of 3,700 tons of assessable apricots. This would generate income of \$5,550 and result in a reduction of the WAMC's reserve fund. The WAMC's reserves are adequate to cover the anticipated deficit for 1991-92. Budgeted expenditures were \$6,965 and the assessment rate was \$1.00 per ton in 1990-91.

The WCMC met May 23, 1991 and unanimously recommended 1991-92 expenditures of \$96,092 and an assessment rate of \$3.00 per ton of assessable cherries shipped under M.O. 923. This compares with expenditures of \$104,130 and an assessment rate of \$5.00 contained in the proposed rule. The lower expenditures reflect a reduction in auditing costs and an \$6,000 reduction in market development expenditures. The recommended \$3.00 assessment rate is based on revised estimated 1991-92 shipments of 31,000 tons of assessable cherries. This would generate income of \$93,000 and result in a reduction in the WCMC's reserve fund. The WCMC's reserves are adequate to cover the anticipated deficit for 1991-92. Budgeted expenditures were \$94,545 and the assessment rate was \$2.00 per ton in 1990-91. The 1991-92 cherry market development project will be submitted for approval once the recommended budget is approved.

The WOPMC met May 29, 1991 and unanimously recommended 1991-92 expenditures of \$16,578 and an assessment rate of \$2.00 per ton of assessable prunes shipped under M.O. 924. This compares with expenditures of \$18,115 and an assessment rate of \$3.00 contained in the proposed rule. The lower expenditures reflect a reduction in auditing costs and the elimination of \$1,500 for production research. The recommended \$2.00 assessment rate is based on revised estimated 1991-92 shipments of 5,750 tons of assessable prunes. This would generate income of \$11,500 and result in a reduction in the WOPMC's reserve fund. The WOPMC's reserves are adequate to cover the anticipated deficit for 1991-92. Budgeted expenditures were \$16,149 and the assessment rate was \$1.50 per ton in 1990-91.

The stone fruit marketing committees'



1991-92 budgets are similar in scope and size to those approved for 1990-91. These committees share a joint office and related expenses, based on an arrangement among the committees. The budgeted expenditures are for marketing order administration, which includes employees' salaries and travel, office operations, and miscellaneous costs, along with expenditures for cherry market development.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

This final rule adds new §§ 921.230, 922.230, 923.231, and 924.231 under these marketing orders, based on the committees' recommendations and other information.

After consideration of the information and recommendations submitted by the committees and other available information, it is found that this final rule will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the *Federal Register* because approval of the expenses and assessment rates must be expedited. The fiscal year for each of these marketing orders began on April 1, 1991, and the committees need sufficient funds to pay their expenses, which are incurred on a continuous basis.

#### List of Subjects in 7 CFR Parts 921, 922, 923 and 924

Apricots, Cherries, Marketing agreements, Peaches, Prunes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 921, 922, 923 and 924 are amended as follows:

1. The authority citation for 7 CFR parts 921, 922, 923 and 924 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

Note: These sections will not appear in the annual Code of Federal Regulations.

#### PART 921—FRESH PEACHES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

2. A new § 921.230 is added to read as follows:

##### § 921.230 Expenses and assessment rate.

Expenses of \$21,356 by the Washington Fresh Peach Marketing Committee are authorized, and an

assessment rate of \$2.00 per ton of assessable peaches is established for the fiscal year ending March 31, 1992. Any unexpended funds from the 1990-91 fiscal year may be carried over as a reserve.

#### PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

3. A new § 922.230 is added to read as follows:

##### § 922.230 Expenses and assessment rate.

Expenses of \$7,723 by the Washington Apricot Marketing Committee are authorized, and an assessment rate of \$1.50 per ton is established for the fiscal year ending March 31, 1992. Any unexpended funds from the 1990-91 fiscal year may be carried over as a reserve.

#### PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

4. A new § 923.231 is added to read as follows:

##### § 923.231 Expenses and assessment rate.

Expenses of \$96,092 by the Washington Cherry Marketing Committee are authorized, and an assessment rate of \$3.00 per ton is established for the fiscal year ending March 31, 1992. Any unexpended funds from the 1990-91 fiscal year may be carried over as a reserve.

#### PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND UMATILLA COUNTY, OREGON

5. A new § 924.231 is added to read as follows:

##### § 924.231 Expenses and assessment rate.

Expenses of \$16,578 by the Washington-Oregon Fresh Prune Marketing Committee are authorized, and an assessment rate of \$2.00 per ton of assessable prunes is established for the fiscal year ending March 31, 1992. Any unexpended funds from the 1990-91 fiscal year may be carried over as a reserve.

Dated: June 17, 1991.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91-14727 Filed 6-19-91; 8:45 am]

BILLING CODE 3410-02-M

#### Farmers Home Administration

#### 7 CFR Parts 1944

#### Section 502 Rural Housing Loan Policies, Procedures and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

**SUMMARY:** The Farmers Home Administration (FmHA) is amending its regulations to implement changes made to the Housing Act of 1949 by section 702 of the Cranston-Gonzalez National Affordable Housing Act. This action is required to be taken to clarify the determination of family size and composition for eligibility under the rural housing loan making program. The intended effect is to assist low-income families whose children have been removed from the applicant/borrower family and placed in foster care. Therefore, the final rule is issued on an emergency basis by the Agency to comply with this Congressional mandate.

**DATES:** This action will take effect on July 22, 1991.

**FOR FURTHER INFORMATION CONTACT:** Karen S. Murray, Senior Loan Specialist, Farmers Home Administration, USDA, room 5334-S, South Agriculture Building, 14th and Independence Ave., SW., Washington, DC 20250, Telephone (202) 382-1474.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 which implements Executive Order 12291, and has been determined to be nonmajor because there is no substantial change from practices under existing rules that would have an annual effect on the economy of \$100 million or more. There is no major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographical regions, or significant adverse effects on competition, employment, productivity, innovation, or in the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

#### Discussion

Section 702 of the Cranston-Gonzalez National Affordable Housing Act amends section 501(b)(4) of the Housing Act of 1949 by inserting the following new sentence: "The temporary absence of a child from the home due to placement in foster care should not be



considered in considering family composition and family size." This language has been incorporated into subpart A of part 1944 of this chapter, where appropriate.

Section 534 of the Housing Act of 1949 requires that all rules and regulations issued pursuant to that Act must be published for public comment. The one noted exception is for a rule or regulation issued on an emergency basis. This action is not published for proposed rule making because it does nothing more than implement a statutory language change over which FmHA has no administrative control, and as such, must be implemented immediately.

#### Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G Environmental Program. It is the determination of FmHA that this action does not constitute a major Federal Action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

#### Programs Affected

This program is listed in the catalog of Federal Domestic Assistance under 10.410, Low Income Housing Loans.

#### Intergovernmental Consultation

For the reason set forth in the final rule and related Notice to 7 CFR part 3015, subpart V, 48 FR 29115, June 24, 1983, this program/activity is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

#### List of Subjects in 7 CFR Part 1944

Home improvement, Loan programs—housing and community development, Low and moderate income housing—rental, Mobile homes, Mortgages, Rural housing, Subsidies.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

#### PART 1944—HOUSING

1. The authority citation for part 1944 continues to read as follows:

Authority: 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

#### Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations.

2. Section 1944.2 is amended by revising paragraph (j) to read as follows:

#### § 1944.2 Definitions.

(j) *Household or family.* The applicant, co-applicant, and all other persons who will make the applicant's dwelling their primary residence for all or part of the next 12 months. Children who are members of the family, but have been removed and placed in foster care, will be counted as residents of the household. Foster care children placed in the borrower's home and live-in aides will not be counted as members of the household.

3. Section 1944.6 is amended by revising the introductory text of paragraph (a) to read as follows:

#### § 1944.6 Adjusted annual income.

(a) A deduction of \$480 for each resident of the household, as defined by § 1944.2 of this subpart, other than the applicant, spouse, or co-applicant, who is:

Dated: May 15, 1991.

La Verne Ausman,  
Administrator, Farmers Home  
Administration.

[FR Doc. 91-14669 Filed 6-19-91; 8:45 am]  
BILLING CODE 3410-07-M

#### 7 CFR Part 1945

#### Final Implementation of Farmer Program Loan Provisions of the 1990 Farm Bill

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) adopts its interim rule published January 16, 1991 (56 FR 1563-1565) as a final rule without change. This action amends FmHA regulations by authorizing special disaster assistance to eligible farmers and ranchers who sustained severe production losses in 1989 or 1990 as a result of natural disasters. This action is necessary to finalize the interim rule, which implemented the provisions of the 1990 Farm Bill (Pub. L. 101-624), dated November 28, 1990, that was incorporated into existing FmHA regulations.

EFFECTIVE DATE: June 20, 1991.

FOR FURTHER INFORMATION CONTACT: Mary Ferguson, Loan Specialist, Farmer Programs Loan Making Division, Farmers Home Administration, USDA South Building, 14th Street and Independence Avenue SW.,

Washington, DC 20250, telephone (202) 475-4018.

#### SUPPLEMENTARY INFORMATION:

##### Classification

This action was reviewed under USDA procedures established in Department Regulation 1512-1, which implements Executive Order 12291, and has been determined nonmajor because it will not result in an annual effect on the economy of \$100 million or more.

##### Intergovernmental Consultation

For the reasons set forth in the final rule related to notice, 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), Emergency Loans are excluded from the scope of Executive Order 12372, which require intergovernmental consultation with State and local officials.

##### Programs Affected

These changes affect the following FmHA program as listed in the Catalog of Federal Domestic Assistance: 10.404—Emergency Loans.

##### Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

##### Discussion of Final Rule

On January 16, 1991, FmHA published an interim rule amending 7 CFR part 1945, subpart D, in the *Federal Register* (56 FR 1563-1565) with a comment period ending February 15, 1991. The 1990 Farm Bill (Pub. L. 101-624), dated November 28, 1990, amended FmHA's statutory loan making authorities. It was necessary to implement these authorities upon publication to provide immediate assistance to farmers and ranchers who had suffered major crop production losses as a result of natural disasters in 1989 or 1990.

The Bill mandates changes in the emergency loan regulations. These changes ease the requirements for obtaining assistance under this program, as did previous changes made as a result of the Disaster Assistance Acts of 1988 and 1989. These changes are fully



addressed in the interim rule. These regulations provide assistance to many needy farmers and ranchers who, without this assistance, are or will be in danger of losing their operations.

#### Discussion of Comments

No comments were received.

#### List of Subjects in 7 CFR Part 1945

Agriculture, Disaster assistance.

Therefore, FmHA adopts its interim rule, dated January 16, 1991 (56 FR 1563-1565), as a final rule without change.

Dated: May 20, 1991.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 91-14668 Filed 6-19-91; 8:45 am]

BILLING CODE 3410-07-M

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

#### 8 CFR Parts 204 and 245

[INS Number: 1419-91]

#### Powers and Duties of Service Officers; Petition To Classify Alien as Immediate Relative of a United States Citizen or Preference Immigrant; Adjustment of Status to That of a Person Admitted for Permanent Residence

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** This interim rule implements section 702 of the Immigration Act of 1990 (IMMACT 90), Public Law 101-649, November 29, 1990, by allowing a citizen or lawful permanent resident petitioner, or an alien applicant for permanent resident status, to seek an exemption from the general prohibition against approval of immigration benefits based upon a marriage entered into while the beneficiary or applicant was under deportation, exclusion or related judicial proceedings. This rule is necessary to establish procedures to allow persons who have bona fide marriages to obtain immigration benefits without complying with the two year foreign residency requirements.

**DATES:** This interim rule is effective June 20, 1991. Comments must be received on or before July 22, 1991.

**ADDRESSES:** Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization

Service, 425 I Street NW., Room 5304, Washington, DC 20536. To ensure proper handling please reference INS number 1419-91 on your correspondence.

**FOR FURTHER INFORMATION CONTACT:** Rita A. Boie, Senior Immigration Examiner, Adjudications Branch, Immigration and Naturalization Service, 425 I Street NW., Room 7223, Washington, DC 20536, telephone (202) 514-5014.

**SUPPLEMENTARY INFORMATION:** The Immigration Marriage Fraud Amendments of 1986 (IMFA) were enacted to deter aliens from marrying solely to obtain immigration benefits. Two provisions of the IMFA were specifically designed to reduce the incentive for an alien to enter into a fraudulent marriage during deportation or exclusion proceedings. These provisions restricted the immigration benefits that could be granted based upon the marriage. Both required the alien to live outside the United States for at least two years following the marriage. Only after the foreign residency requirement was fulfilled would the alien be eligible to obtain permanent residence based upon the marriage. These provisions were incorporated into the Act as sections 204(h) and 245(e).

Section 702 of IMMACT 90 was enacted to allow aliens in marriages which were clearly bona fide to be exempted from compliance with the foreign residence requirement. Section 702 also contained a purely technical amendment redesignating section 204(h) of the Act as section 204(g).

This interim rule allows the petitioner or applicant to request consideration for the new exemption by filing a relative visa petition or application for adjustment of status, accompanied by clear and convincing evidence that the marriage is bona fide. No additional application forms or fees are required.

Procedures are also established for use by applicants or petitioners who wish to appeal a denial based upon failure to qualify for the exemption. Denials of visa petitions may be appealed to the Board of Immigration Appeals. Adjustment of status applications denied by the district director because the applicant did not qualify for the exemption may be appealed to the Associate Commissioner, Examinations. Adjustment of Status applications denied by the district director for other reasons will continue to be reviewable only in deportation proceedings.

Those whose earlier requests for benefits were denied because of failure to comply with the foreign residence

requirement may reapply. Citizens petitioning for immediate relatives and applicants for adjustment of status who are not under deportation proceedings may choose to file new applications or petitions. As an alternative, they may file motions to reopen prior applications or petitions. An applicant for adjustment of status who is under deportation proceedings may file a motion with the immigration judge having jurisdiction over the deportation proceeding. The new applications, petitions or motion must be accompanied by clear and convincing evidence of a bona fide marriage.

Preference petitioners may also request consideration for the new benefits. However, these petitioners must file new petitions, unless the filing date of the original petition is on or after November 29, 1990. This restriction is necessary because preference aliens are issued immigrant visas strictly in priority date order. The priority date for a relative preference petition is established by the date the petition is properly filed with the Service. In many categories, the demand for visas far exceeds the number allowed by law. Preference aliens whose priority dates cannot be reached are placed on a waiting list. To allow these aliens to utilize the earlier date would mean that they would obtain immigrant visas before aliens who waited to file until they were fully qualified under the laws and regulations in effect at the time. Such a result would be unfair to the fully qualified aliens and would be contrary to regulations and long-held Service precedents.

Technical revisions to the existing regulations are contained in this rule. These revisions are necessary to clarify requirements and procedures established by the regulations and to remove grammatical inconsistencies caused by the addition of the new exemptions.

Additional technical revisions to regulations which were not affected by the IMMACT 90 amendments are also contained in this rule. References to the cancellation of the Notice to Applicant for Admission Detained for Hearing before Special Inquiry Officer have been removed since neither the Act nor the Code of Federal Regulations contain provisions authorizing the cancellation of the Notice.

The method by which the Service determines the date deportation proceedings begin for the purpose of applying the two year foreign residence requirement is also changed. Formerly, the Service considered the alien to be under deportation proceedings on the



date the Order to Show Cause was issued when determining whether or not the alien was subject to this requirement. This rule provides that aliens named in Orders to Show Cause issued on or after June 20, 1991 will not be considered to be under deportation proceedings until the Order to Show Cause is filed with the Office of the Immigration Judge. This new definition of the commencement of deportation proceedings conforms with the provisions of 8 CFR 3.13 and 8 CFR 242.1.

The general prohibition against approval of an application for adjustment of status is extended to marriages entered into on November 10, 1986, while the alien was under proceedings. The prior regulations inadvertently excluded reference to marriages entered into on that date. The language of the IMFA clearly states that this prohibition will apply to marriages entered into both on and after November 10, 1986.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date are impracticable and unnecessary as the changes have been mandated by the passage of Public Law 101-649, (IMMACT 90), which amends the Marriage Fraud Amendments of 1986 (IMFA). Early implementation will allow United States citizens and aliens who have entered into bona fide marriages to obtain immigration benefits without being required to comply with the two year foreign residency requirement. The change in the method by which the Service determines the date on which deportation proceedings commence will result in fewer aliens being subject to the foreign residence requirement.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

The information collection requirement contained in this regulation has been cleared by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act. The OMB control number for this collection is contained in 8 CFR 299.5.

## List of Subjects

### 8 CFR Part 204

Reporting and recordkeeping requirements, Visa petitions.

### 8 CFR Part 245

Aliens, Immigration, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

## PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

1. The authority citation for part 204 continues to read as follows:

Authority: 66 Stat. 166, 173, 175, 178, 179, 182, 217; 100 Stat. 3537, 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1186a, 1255 and 8 CFR part 2.

2. In § 204.1, paragraph (a)(2)(iii) is revised to read as follows:

### § 204.1 Petition.

(a) \* \* \*

(2) \* \* \*

(iii) *Marriage during proceedings—general prohibition against approval of visa petition.* A visa petition filed on behalf of an alien by a United States citizen or lawful permanent resident spouse shall not be approved if the marriage creating the relationship occurred on or after November 10, 1986, and while the alien was in deportation or exclusion proceedings, or judicial proceedings relating thereto.

(A) *Commencement of proceedings.* The period during which the alien is in deportation or exclusion proceedings, or judicial proceedings relating thereto commences:

(1) With the issuance of the Order to Show Cause and Notice of Hearing (Form I-221) prior to June 20, 1991;

(2) With the filing of an Order to Show Cause and Notice of Hearing (Form I-221) issued on or after June 20, 1991 with the Office of the Immigration Judge;

(3) With the issuance of the Notice to Applicant for Admission Detained for Hearing before Immigration Judge (Form I-122);

(B) *Termination of proceedings.* The period during which the alien is in deportation or exclusion proceedings, or judicial proceedings relating thereto terminates:

(1) When the alien departs from the United States while an order of deportation is outstanding or before the expiration of the voluntary departure time granted in connection with an alternate order of deportation under 8 CFR 243.5;

(2) When the alien departs from the United States pursuant to an order of exclusion;

(3) When the alien is found not to be excludable or deportable from the United States;

(4) When the Order to Show Cause is canceled pursuant to 8 CFR 242.7(a);

(5) When proceedings are terminated by the immigration judge, or the Board of Immigration Appeals; or

(6) When a petition for review or an action for habeas corpus is granted by a Federal Court on judicial review.

(C) *Exemptions.* This prohibition shall no longer apply if:

(1) The alien is found not to be excludable or deportable from the United States;

(2) The Order to Show Cause is canceled pursuant to 8 CFR 242.7(a);

(3) Proceedings are terminated by the immigration judge or the Board of Immigration Appeals;

(4) A petition for review or an action for habeas corpus is granted by a Federal Court on judicial review;

(5) The alien has resided outside the United States for two or more years following the marriage;

(6) The petitioner establishes eligibility for the bona fide marriage exemption under section 204(g) of the Act by providing clear and convincing evidence that the marriage was entered into in good faith and in accordance with the laws of the place where the marriage took place, was not entered into for the purpose of procuring the alien's entry as an immigrant, and no fee or other consideration was given (other than to an attorney for assistance in preparation of a lawful petition) for the filing of the petition.

(D) *Request for exemption.* No application or fee is required to request an exemption. The request must be made in writing and submitted with the Form I-130, Petition for Alien Relative. The request must state the reason for seeking the exemption and must be supported by documentary evidence establishing eligibility for the exemption.

(E) *Evidence to establish eligibility for the bona fide marriage exemption.* In order to establish that the marriage was entered into in good faith and not entered into for the purpose of procuring the alien's entry as an immigrant, the petitioner shall submit evidence such as:

(1) Documentation showing joint ownership of property;

(2) Lease showing joint tenancy of a common residence;

(3) Documentation showing commingling of financial resources;



(4) Birth certificates of children born to the petitioner and beneficiary;

(5) Affidavits of third parties having knowledge of the bona fides of the marital relationship, or

(6) Other documentation establishing that the marriage was not entered into in order to evade the immigration laws of the United States.

(F) *Decision.* Any petition filed during the prohibited period shall be denied, unless the petitioner establishes eligibility for an exemption from the general prohibition. The petitioner shall be notified in writing of the decision of the director.

(G) *Denials.* The denial of a petition because the marriage took place during the prohibited period shall be without prejudice to the filing of a new petition after the beneficiary has resided outside the United States for the required period of two years following the marriage. The denial shall also be without prejudice to the consideration of a new petition or a motion to reopen the visa petition if deportation or exclusion proceedings are terminated after the denial other than by the beneficiary's departure from the United States. Furthermore, the denial shall be without prejudice to the consideration of a new petition or motion to reopen the visa petition, if the petitioner establishes eligibility for the bona fide marriage exemption contained in this part: *Provided*, That no motion to reopen visa petition proceedings may be accepted if the approval of the motion would result in the beneficiary being accorded a priority date within the meaning of section 203(c) of the Act earlier than November 29, 1990.

(H) *Appeals.* The decision of the Board of Immigration Appeals concerning the denial of a relative visa petition because the petitioner failed to establish eligibility for the bona fide marriage exemption contained in this part will constitute the single level of appellate review established by statute.

(I) *Priority Date.* A preference beneficiary shall not be accorded a priority date within the meaning of section 203(c) of the Act based upon any relative petition filed during the prohibited period, unless an exemption contained in this part has been granted. Furthermore, a preference beneficiary shall not be accorded a priority date prior to November 29, 1990, based upon the approval of a request for consideration for the bona fide marriage

exemption contained in this part.

**PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE**

3. The authority citation for part 245 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1154, 1182, 1186a, 1255, and 1257; 8 CFR part 2.

4. In § 245.1, paragraph (b)(14) is revised to read as follows:

**§ 245.1 Eligibility.**

(b) \* \* \*

(14) Any alien who seeks to adjust status based upon a marriage which occurred on or after November 10, 1986, and while the alien was in deportation or exclusion proceedings, or judicial proceedings relating thereto.

(i) *Commencement of proceedings.* The period during which the alien is in deportation or exclusion proceedings, or judicial proceedings relating thereto commences:

(A) With the issuance of the Order to Show Cause and Notice of Hearing (Form I-221) prior to June 20, 1991;

(B) With the filing of the Order to Show Cause and Notice of Hearing (Form I-221) issued on or after June 20, 1991 with the Office of the Immigration Judge; or

(C) With the issuance of the Notice to Applicant for Admission Detained for Hearing before Immigration Judge (Form I-122).

(ii) *Termination of Proceedings.* The period during which the alien is in deportation or exclusion proceedings, or judicial proceedings relating thereto terminates:

(A) When the alien departs from the United States while an order of deportation is outstanding or before the expiration of the voluntary departure time granted in connection with an alternate order of deportation under 8 CFR 243.5;

(B) When the alien departs from the United States pursuant to an order of exclusion;

(C) When the alien is found not to be excludable or deportable from the United States;

(D) When the Order to Show Cause is canceled pursuant to 8 CFR 242.7(a);

(E) When the proceedings are terminated by the immigration judge or the Board of Immigration Appeals; or

(F) When a petition for review or an action for habeas corpus is granted by a Federal Court on judicial review.

(iii) *Exemptions.* This prohibition shall no longer apply if:

(A) The alien is found not to be excludable or deportable from the United States;

(B) The Order to Show Cause is canceled pursuant to 8 CFR 242.7(a);

(C) Proceedings are terminated by the immigration judge or Board of Immigration Appeals;

(D) A petition for review or an action for habeas corpus is granted by a Federal Court on judicial review;

(E) The alien has resided outside the United States for two or more years following the marriage; or

(F) The alien establishes that the marriage is bona fide by providing clear and convincing evidence that the marriage was entered into in good faith and in accordance with the laws of the place where the marriage took place, was not entered into for the purpose of procuring the alien's entry as an immigrant, and no fee or other consideration was given (other than to an attorney for assistance in preparation of a lawful petition) for the filing of a petition.

(iv) *Request for exemption.* No application or fee is required to request the exemption under section 245(e) of the Act. The request must be made in writing and submitted with the Form I-485, Application for Permanent Residence. The request must state the basis for requesting consideration for the exemption and must be supported by documentary evidence establishing eligibility for the exemption.

(v) *Evidence to establish eligibility for the bona fide marriage exemption.* Section 204(g) of the Act provides that certain visa petitions based upon marriages entered into during deportation, exclusion or related judicial proceedings may be approved only if the petitioner provides clear and convincing evidence that the marriage is bona fide. Evidence that a visa petition based upon the same marriage was approved under the bona fide marriage exemption to section 204(g) of the Act will be considered primary evidence of eligibility for the bona fide marriage exemption provided in this part. The applicant will not be required to submit additional evidence to qualify for the bona fide marriage exemption provided in this part, unless the district director determines that such additional evidence is needed. In cases where the district director notifies the applicant that additional evidence is required, the applicant must submit documentary evidence which clearly and convincingly establishes that the marriage was entered into in good faith and no



entered into for the purpose of procuring the alien's entry as an immigrant. Such evidence may include:

(A) Documentation showing joint ownership of property;

(B) Lease showing joint tenancy of a common residence;

(C) Documentation showing commingling of financial resources;

(D) Birth certificates of children born to the applicant and his or her spouse;

(E) Affidavits of third parties having knowledge of the bona fides of the marital relationship, or

(F) Other documentation establishing that the marriage was not entered into in order to evade the immigration laws of the United States.

(vi) *Decision.* An application for adjustment of status filed during the prohibited period shall be denied, unless the applicant establishes eligibility for an exemption from the general prohibition.

(vii) *Denials.* The denial of an application for adjustment of status because the marriage took place during the prohibited period shall be without prejudice to the consideration of a new application or a motion to reopen a previously denied application, if deportation or exclusion proceedings are terminated while the alien is in the United States. The denial shall also be without prejudice to the consideration of a new application or motion to reopen the adjustment of status application, if the applicant presents clear and convincing evidence establishing eligibility for the bona fide marriage exemption contained in this part.

(viii) *Appeals.* An application for adjustment of status to lawful permanent resident which is denied by the district director solely because the applicant failed to establish eligibility for the bona fide marriage exemption contained in this part may be appealed to the Associate Commissioner, Examinations, in accordance with 8 CFR part 103. The appeal to the Associate Commissioner, Examinations, shall be the single level of appellate review established by statute.

Dated: March 18, 1991.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 91-14687 Filed 6-19-91; 8:45 am]

BILLING CODE 4410-10-M

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### 12 CFR Parts 7 and 23

[Docket No. 91-5]

#### Lease Financing Transactions

**AGENCY:** Office of the Comptroller of the Currency, Treasury.

**ACTION:** Final rule.

**SUMMARY:** This Office of the Comptroller of the Currency (the OCC) is amending its regulation on lease financing transactions of national banks. This action is prompted by an amendment to Revised Statute 5136 (12 U.S.C. 24) by section 108 of the Competitive Equality Banking Act (CEBA), Public Law 100-86, 101 Stat. 579 (August 10, 1987). The final rule is designed to balance a national bank's interest in exercising its statutory authority with the national interest in a safe and sound national banking system. Through this final rule, the OCC is re-issuing its current Interpretive Ruling on lease financing transactions, presently codified at 12 CFR 7.3400, as a subpart of the new regulation. The OCC had issued this Interpretive Ruling earlier, recognizing that, incidental to the authority to make loans, national banks were also authorized to enter into lease financing transactions. See 44 FR 22393 (April 13, 1979). Re-issuing the Interpretive Ruling as part of this final rule consolidates the OCC's substantive lease financing regulations and clarifies the two types of lease financing authority available to national banks.

To achieve this consolidation, the final rule is organized into three subparts. Subpart A applies to all lease financing transactions, whether entered into under the authority of 12 U.S.C. 24(7), as incidental to banking, or under the specific authority of section 108 of CEBA. Subpart B addresses additional requirements applicable only to lease financing transactions entered into under section 108 of CEBA. Subpart C incorporates the provisions of Interpretive Ruling 7.3400 into the regulation, and addresses additional requirements applicable only to lease financing transactions entered into under the general authority of 12 U.S.C. 24(7).

In order to integrate the provisions of Interpretive Ruling 7.3400 into the framework of the final rule, the OCC has substantially reorganized it. Notwithstanding this reorganization of the Interpretive Ruling, the OCC has

made only two substantive changes; (1) addressing the re-leasing of property acquired for lease financing transactions; and (2) applying 12 U.S.C. 371c-1 to lease financing transactions. Both of these changes have been addressed through the generally applicable provisions of subpart A.

**EFFECTIVE DATE:** July 22, 1991.

#### FOR FURTHER INFORMATION CONTACT:

Robert J. Hemming, National Bank Examiner, Supervision Policy/Research Division (202) 874-5350; Richard Shack, Bank Accounting (202) 874-5350; or Robert J. Roth, Attorney, Legal Advisory Services Division (202) 874-5300.

#### SUPPLEMENTARY INFORMATION:

##### Background

This final rule is derived from a notice of proposed rulemaking (NPRM) published by the OCC on December 27, 1989. See 54 FR 53071. Nineteen comments were received during the comment period, which ended February 26, 1990. Portions of the proposal have been modified in response to comments received during the comment period. Following is a discussion of the major issues raised by the commenters. Included in this discussion are any substantive changes from the NPRM and their incorporation into the final rule.

##### Discussion of Comment Letters

###### "Net lease basis" Definition

Several commenters accepted the OCC's invitation to comment on whether the definition of net lease should be rewritten to afford banks greater flexibility in exercising their statutory leasing authority. The vast majority of the commenters advocated expanding the definition of net lease to include various marketing, finder or other activities in connection with a bank's lease financing operations. After evaluating these comments, the OCC has decided to provide relief from some of the restrictions imposed by the net lease definition.

Accordingly, a new paragraph (d) has been added to section 23.2 which authorizes national banks to arrange for any of the services proscribed by paragraph (a), *i.e.*, repair and maintenance, insurance, etc., to be provided by third-party servicers on behalf of lessees whose property national banks hold title to as lessor. The OCC believes that the expansion of the net lease definition is consistent with the parameters set forth in *M & M Leasing Corporation v. Seattle First National Bank*, 583 F.2d 1377 (9th Cir. 1977), *cert. denied*, 436 U.S. 956 (1978) (*M & M Leasing*), since the lessee, and



not the bank, will remain responsible for paying for the cost of insurance and for all repairs and maintenance. The OCC believes that the rendering of such service responsibilities by third-parties is distinguishable from situations in which operational services are provided by the lessor.

Arranging for such incidental service arrangements provides national banks with an efficient means by which they may exercise greater control over the leased property while in the hands of the lessee, thereby protecting the residual value of the property by ensuring that such property is properly insured and serviced during the lease term. In providing lessees with the opportunity to purchase incidental service arrangements, national banks should ensure that such programs are structured to comply with the anti-tying provisions of 12 U.S.C. 1972.

In addition, it is the OCC's intention that the restrictions imposed by paragraph (a) not be read as precluding national banks from engaging in activities incidental to the leasing function which the OCC has previously found to be within the business of banking. Thus, acting as finder under Interpretative Ruling 7.7200 or similar agent or broker functions would not be foreclosed to national banks due to the restrictions on net leases imposed by paragraph (a).

The OCC has also made an additional change to the net lease definition in § 23.2. Specifically, § 23.2(b)(1) has been changed to clarify that a lessor, in addressing a deteriorating lease situation, is not only freed from the "net lease" requirements under § 23.2(a), but also from the residual value limitations imposed under § 23.11. While both CEBA and 12 U.S.C. 24(7) leases must be on a net basis, only the latter must be on a full-payout basis. As proposed, § 23.2(b)(1) could have been interpreted as removing only the net lease requirement in paragraph (a) without any impact on the full-payout requirement applicable to leases entered into under 12 U.S.C. 24(7). This change is intended to retain the flexibility contained in the distress provision previously found in Interpretative Ruling 7.3400(d)(1), which made specific reference to net, full payout leases.

#### *Investment in Personal Property*

**a. Legally Binding Written Commitment Requirement.** Several commenters objected to the proposed change in § 23.3(a) which would have prevented banks from acquiring property on behalf of a lessee in the absence of a legally binding written commitment to lease. These commenters

noted that this proposed change was more restrictive than that imposed by current Interpretive Ruling 7.3400, which authorizes a national bank to acquire such property at the request of the lessee who wishes to lease it from the bank. In addition, some commenters noted that several types of leasing activities make it impractical to have a lease signed prior to the order or acquisition of the property.

In proposing the legally binding written commitment standard, it was not the OCC's intent to interfere with established bank leasing practices. The primary purpose of the change was to prevent national banks from either inventorying or speculating in property which it may not subsequently be able to lease or sell. The measure was further intended to limit a bank's exposure in the event a potential lessee refused to proceed with a lease financing transaction. The final rule adopts a compromise position which the OCC believes provides sufficient flexibility to bank lessors, while ensuring that banks are adequately insulated from loss associated with an unconsummated lease transaction in which the bank has already acquired the property. This has been accomplished by amending § 23.3(a) to require either a legally binding written commitment to lease or a legally binding written agreement which indemnifies the bank against loss in connection with the acquisition of the leased property.

#### *b. Off-Lease Property Holding Period*

Section 23.3(b) has also been modified in the final rule. Instead of a one year holding period for off-lease property with the possibility of subsequent extensions upon a showing of exceptional circumstances, the OCC is adopting a two year holding period for off-lease property, with no possibility of extension. The two year holding period will commence on the expiration date of the initial lease, or in the event of default, on the date the lease is declared in default. The OCC believes that this change will provide banks with a more realistic time frame for disposing of previously leased property, while at the same time eliminating the regulatory burden associated with requests for holding period extensions. Thus, upon the expiration of the two year holding period, national banks will be required to write-off any remaining book value for off-lease assets. National banks will be expected to actively attempt to either re-lease off-lease property or dispose of such property as soon as practicable. Adherence to the two year holding period will be verified through the examination process.

#### *c. Interim or Bridge Leases*

Finally, § 23.3(c) has been amended to provide additional guidance on the permissible uses of bridge or interim leases. The NPRM, in addressing the return of leased property at the expiration of a conforming lease term, or upon the default of a lessee, required that any subsequent bridge lease be in conformance with the requirements of subpart A and only be used to facilitate conforming long-term lease financing transactions. Some commenters sought clarification on whether the reference to subpart A implied that even short-term bridge leases would be required to comply with the § 23.1(b) requirement that a bank must reasonably expect to realize a return of its full investment in the leased property. As noted by the commenters, in most cases, a short-term bridge lease would not satisfy the full return on investment requirement. Additionally, the commenters sought clarification on whether § 23.3(c) would preclude a national bank from arranging for a lessee to go month-to-month on the expiration of a conforming lease.

Commenters noted that the need for short-term extensions might be desirable in certain equipment leasing transactions in which project delays may extend the remaining project term beyond the initial lease term, but may not warrant a long-term renewal. In such cases, the lessee may wish to continue leasing the equipment on a month-to-month basis pending the project's completion. In such situations, commenters felt a bridge lease would be appropriate notwithstanding the fact that such leases would not be facilitating conforming long-term leases.

The OCC believes that interim leases of off-lease property benefit banks in several ways. First, interim leases generate additional rental revenues. Second, they reduce bank costs associated with storage, transportation, security, etc. pending sale or long-term lease of the property. Finally, interim leases benefit banks by requiring the interim lessee to pay for the various servicing, repair and insurance obligations associated with the property during the off-lease period.

Accordingly, the final rule liberalizes the use of short-term leases by amending § 23.3(c) to authorize a national bank/lessor to enter into occasional interim lease financing transactions, but only at the conclusion of a lease which originally conformed with the requirements of subpart A and either subpart B or C, or which would have conformed with those provisions except for a default by the original



lessee. Based on this amendment a national bank may lease off-lease property on a month-to-month basis to either the initial lessee (assuming the lessee has not defaulted on the original lease) or to a new lessee, subsequent to the termination of a conforming lease. Under these limited circumstances, the lease need only comply with the net lease requirements of subpart A and will not be subject to the more specific requirements of subpart B or C. This change is intended to aid national banks in maintaining cash flow associated with off-lease property pending sale or re-lease of the property as a conforming lease transaction.

*Application of Lending Limits; Restrictions on Transactions with Affiliates*

Section 23.5 of the final rule makes it clear that lease financing transactions, whether entered into under Section 108 of CEBA or 12 U.S.C. 24(7), are subject to the per borrower limitations of 12 U.S.C. 84. This section also makes the substantive provisions of 12 U.S.C. 371c and 371c-1 applicable to all lease financing transactions.

Some commenters objected to the application of 12 U.S.C. 84 to CEBA leases, stating that such leases are not required to be the functional equivalent of loans and, therefore, should be exempt from the loans to one borrower restriction imposed by the section. Notwithstanding this view, the OCC believes that 12 U.S.C. 84 should apply to CEBA leases in order to limit a bank's risk of exposure to any one lessee or group of lessees and to promote diversification of a bank's lease portfolio. Consistent with the NPRM, nonrecourse debt may be subtracted from the aggregate book value of leased property to determine the lessee's appropriate lending limit position.

*Minimum Lease Term*

Section 23.8, which imposes a minimum lease term of 90 days, is intended to address the Conference Report statement that section 108 of CEBA is not intended to allow national banks to engage in daily or short-term leases of personal property. Some commenters opposed the imposition of any minimum lease term for CEBA leases. Others suggested that the prohibition against short-term rentals was intended only to protect nonbank rental companies, such as daily or weekly car rental agencies from national bank competition and that the requirement that all leases be on a "net lease" basis effectively prohibited a bank from inventorying and maintaining property consistent with the needs of a

short-term rental company. Some commenters suggested that if Congress wanted to establish a minimum lease term for CEBA leases it could have easily done so.

Congress enacted section 108 of CEBA to provide national banks with relief from the residual value restrictions imposed under Interpretive Ruling 7.3400, thereby enabling banks to engage in shorter term leases and compete with nonbank lessors in the high-grade commercial equipment lease market. The OCC believes that a 90 day minimum lease term provides national banks with sufficient flexibility to meet the leasing needs of its customers. Further, a minimum lease term is advisable in that it provides banks with a standard for determining what constitutes a permissible lease term. In addition, setting the minimum lease term at 90 days eliminates the need to test the outer limits of the meaning of the phrase short-term, thereby avoiding any possible conflict with Congress' express intent that national banks refrain from engaging in the daily or short-term equipment or automobile rental business.

The OCC has decided to modify the minimum lease term in the final rule to permit national banks to acquire property subject to existing leases having remaining maturities of less than 90 days, provided that such leases, at their inception, were in conformance with the general lease requirements of subpart A and those applicable to CEBA leases under subpart B. This amendment is intended to provide national banks with additional flexibility in managing their lease portfolios consistent with the intent of CEBA.

*Calculating Volume Limitation for CEBA Leases*

The NPRM made clear that the volume restriction for CEBA leases, which limits lease volume to 10 percent of an institution's assets, is computed with reference to a national bank's total consolidated assets. The OCC further stated that the 10 percent volume limitation is to be based on the aggregate book value of all tangible personal property held for lease financing transactions under section 108. In calculating this volume limitation, the NPRM indicated that nonrecourse debt is not to be subtracted.

Some commenters stated that the inclusion of nonrecourse debt in arriving at the overall volume limitation would substantially exaggerate a national bank's true exposure in a leasing transaction. As nonrecourse debt does not represent an obligation of the bank, it was suggested that attributing the

nonrecourse debt to the bank for volume limitation purposes would be inappropriate. Moreover, in accounting for leveraged leases, the lessor bank records its investment net of the nonrecourse debt. Accordingly, the OCC has decided that when calculating the volume limitation on CEBA leases, nonrecourse debt may be subtracted from this calculation. This change more accurately reflects a bank's true lease exposure and is consistent with the treatment of nonrecourse debt in calculating a lessee's lending limit position.

**Regulatory Flexibility Analysis**

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601), it is certified that this final rule, will not have a significant impact on a substantial number of small entities.

**Executive Order 12291**

The OCC has determined that this final rule is not classified as a major rule, and therefore does not require a regulatory impact analysis.

**List of Subjects 12 CFR Parts 7 and 23**

National banks, Leasing, Lease financing transactions.

**Authority and Issuance**

For the reasons set forth in the Preamble, chapter I of title 12 of the Code of Federal Regulations is amended as set forth below:

**PART 7—[AMENDED]**

1. The authority citation for part 7 continues to read as follows:

Authority: 12 U.S.C. 1 et seq.; 12 U.S.C. 93a.

2. Section 7.3400, Interpretive Ruling 7.3400, is removed effective July 22, 1991.

**PART 23—[ADDED]**

3. Part 23 is added to read as follows:

**PART 23—LEASING**

**Subpart A—General Provisions**

- Sec.
- 23.1 Authority.
- 23.2 Net lease basis.
- 23.3 Investment in personal property.
- 23.4 Segregation of records.
- 23.5 Application of lending limits; restrictions on transactions with affiliates.
- 23.6 Consumer Leasing Act of 1976.

**Subpart B—CEBA Leases**

- Sec.
- 23.7 General rule.
- 23.8 Lease term.
- 23.9 Transition period.



**Subpart C—Leases Under the Authority of 12 U.S.C. 24 (7)**

Sec.

- 23.10 General rule.  
 23.11 Maximum estimated residual value.  
 23.12 Transition rule.

Authority: 12 U.S.C. 1; 12 U.S.C. 24(7) and (10); 93a.

**Subpart A—General Provisions****§ 23.1 Authority.**

(a) A national bank may engage in lease financing transactions under either of two distinct lines of authority. In order to enter into a lease financing transaction as specifically authorized by 12 U.S.C. 24(10), *i.e.*, a CEBA Lease, a national bank must comply with subparts A and B of this part. In order to enter into a lease financing transactions as generally authorized by 12 U.S.C. 24(7), a national bank must comply with subparts A and C of this part.

(b) On entering into a lease financing transaction in compliance with this subpart, a bank must reasonably expect to realize a return of its full investment in the leased property, plus the estimated cost of financing the property over the term of the lease, from —

- (1) Rentals;
- (2) Estimated tax benefits; and
- (3) The estimated residual value of the property at the expiration of the term of the lease.

**§ 23.2 Net lease basis.**

(a) A *net lease* is a lease under which the national bank will not, directly or indirectly, provide or be obligated to provide for:

- (1) The servicing, repair or maintenance of the leased property during the lease term.
- (2) The purchasing of parts and accessories for the leased property; however, improvements and additions to the leased property may be leased to the lessee upon its request in accordance with any applicable requirements for maximum estimated residual value.
- (3) The loan of replacement or substitute property while the leased property is being serviced.
- (4) The purchasing of insurance for the lessee, except where the lessee has failed in its contractual obligation to purchase or maintain the required insurance.
- (5) The renewal of any license or registration for the property unless such action by the bank is necessary to protect its interest as owner or financier of the property.

(b) If, in good faith, a national bank believes that there has been an unexpected change in conditions which

threatens its financial position by significantly increasing its exposure to loss, the limitations contained in paragraph (a) of this section shall not prevent the bank—

(1) As the owner and lessor under a net lease, (including a full-payout lease entered into under 12 U.S.C. 24(7)), from taking reasonable and appropriate action to salvage or protect the value of the property or its interests arising under the lease; or

(2) As the assignee of a lessor's interest in a lease, from becoming the owner and lessor of the leased property pursuant to its contractual right, or from taking any reasonable and appropriate action to salvage or protect the value of the property or its interests arising under the lease.

(c) The limitations contained in paragraph (a) of this section do not prohibit a national bank from including any provisions in a lease, or from making any additional agreements, to protect its financial position or investment in the circumstances set forth in paragraph (b) of this section.

(d) The limitations contained in paragraph (a) of this section do not prohibit a national bank from arranging for any of the services enumerated in paragraph (a) of this section to be provided by a third party to a lessee (at the expense of the lessee) with respect to property leased by the lessee.

**§ 23.3 Investment in personal property.**

(a) A national bank may acquire specific property to be leased only after the bank has entered into either:

- (1) A legally binding written agreement which indemnifies the bank against loss in connection with its acquisition of the property; or
- (2) A legally binding written commitment to lease the property on terms which comply with the provisions of this subpart and either subpart B or C of this part.

(b) At the expiration of the lease (including any renewals or extensions with the same lessee), or in the event of a default on a lease agreement prior to the expiration of the lease term, all of the bank's interest in the property shall either be liquidated or re-leased in conformance with this subpart and either subpart B or C of this part, as soon as practicable, but in no event later than two years from the expiration of the lease. Property which the bank retains in anticipation of re-leasing must be revalued at the lower of current fair market value or book value prior to any subsequent lease.

(c) Notwithstanding the provisions of paragraph (b) of this section, on the return of leased property at the

expiration of a conforming lease term, or on the default of a lessee, a short-term bridge or interim lease is permissible if it otherwise conforms with the net lease requirements of § 23.2 of this subpart A. Such a short-term bridge or interim lease need not comply with the further requirements of subpart B or C of this part. Short-term bridge or interim leases may be used pending the sale of off-lease property, or its re-lease as a conforming long-term lease financing transaction.

**§ 23.4 Segregation of records.**

Where a national bank enters into both CEBA leases and leases under the authority of 12 U.S.C. 24(7), the bank must specifically identify any records it maintains on its CEBA leases to distinguish them from those records which the bank maintains on its leases under the authority of 12 U.S.C. 24(7).

**§ 23.5 Application of lending limits; restrictions on transactions with affiliates.**

Leasing financing transactions entered into under this part are subject to the limitations on loans or extensions of credit under 12 U.S.C. 84 and to the restrictions on transactions with affiliates under 12 U.S.C. 371c and 371c-1. The Comptroller of the Currency reserves the right to determine that such leases are also subject to the limitations of any other law, regulation or ruling.

**§ 23.6 Consumer Leasing Act of 1976.**

Nothing in this part shall be construed to be in conflict with the duties, liabilities and standards imposed by the Consumer Leasing Act of 1976, 15 U.S.C. 1667 *et seq.*

**Subpart B—CEBA Leases****§ 23.7 General rule.**

Pursuant to 12 U.S.C. 24(10), a national bank may invest in tangible personal property, including, without limitation, vehicles, manufactured homes, machinery, equipment, or furniture, for lease financing transactions on a net lease basis, or may become the owner and lessor of such tangible personal property by purchasing the property from another lessor in connection with its purchase of the related lease; provided that the requirements of subpart A of this part and this subpart are met, and the aggregate book value of all tangible personal property held for lease (under the authority of 12 U.S.C. 24(10)) does not exceed 10 percent of the consolidated assets of the national bank.



**§ 23.8 Lease term.**

(a) Lease financing transactions entered into under this subpart must have an initial term of not less than 90 days.

(b) The minimum lease term provided for in paragraph (a) of this section, shall not be applicable to the acquisition of property subject to an existing lease with a remaining maturity of less than 90 days, provided that, at its inception, such lease was in conformance with the requirements of subpart A of this part and this subpart.

**§ 23.9 Transition period.**

(a) Lease financing transactions entered into under the authority of 12 U.S.C. 24(10) prior to July 22, 1991 may continue to be administered in accordance with the lease financing terms agreed to by the bank/lessor and lessee. With respect to the applicability of § 23.5, when making new extensions of credit, including leases, to a customer, a national bank must consider all outstanding leases regardless of the date on which they were made.

(b) Any lease which was entered into in good faith prior to July 22, 1991 which does not satisfy the requirements of subpart A of this part and this subpart may be renewed without violation of this part only if there is a binding agreement in the expiring lease which requires the bank to renew it at the lessee's option, and the bank cannot otherwise reasonably or properly avoid its commitment to do so, and the bank in good faith determines and demonstrates, by full documentation, that renewal of the lease is necessary to avoid significant financial loss and recover its total investment in, plus the cost of financing, the property.

**Subpart C—Leases Under the Authority of 12 U.S.C. 24(7)****§ 23.10 General rule.**

Pursuant to 12 U.S.C. 24(7), a national bank may become the legal or beneficial owner and lessor of specific personal property or otherwise acquire such property; or become the owner and lessor of personal property by purchasing the property from another lessor in connection with its purchase of the related lease; and incur obligations incidental to its position as the legal or beneficial owner and lessor of the leased property; provided that the lease is a net, full-payout lease representing a noncancelable obligation of the lessee, notwithstanding the possible early termination of that lease, and the requirements of subpart A of this part and this subpart are met.

**§ 23.11 Maximum estimated residual value.**

(a) Any unguaranteed portion of the estimated residual value relied upon by the bank to yield a full return under this subpart shall not exceed 25 percent of the original cost of the property to the lessor. The amount of any estimated residual value guaranteed by the manufacturer, the lessee, or a third party which is not an affiliate (as defined by 12 U.S.C. 371c) of the bank, may exceed 25 percent of the original cost of the property, where the bank has determined, and can provide full, supporting documentation, that the guarantor has the resources to meet the guarantee.

(b) Calculations of estimated residual value on leases of personal property to Federal, State, or local governmental entities may be based on reasonably anticipated future transactions or renewals.

(c) In all cases, both the estimated residual value of the property and that portion of the estimated residual value relied upon by the lessor to satisfy the requirements of a full-payout lease must be reasonable in light of the nature of the leased property and all relevant circumstances so that realization of the lessor's full investment plus the cost of financing the property primarily depends on the creditworthiness of the lessee and any guarantor of the residual value, and not on the residual market value of the leased item.

**§ 23.12 Transition rule.**

This part shall not apply to any leases executed prior to June 12, 1979. With respect to the applicability of § 23.5, when making new extensions of credit, including leases, to a customer, a national bank must consider all outstanding leases regardless of the date on which they were made. Any lease which was entered into in good faith prior to such date which does not satisfy the requirements of this part may be renewed without violation of this part only if there is a binding agreement in the expiring lease which requires the bank to renew it at the lessee's option, and the bank cannot otherwise reasonably or properly avoid its commitment to do so, and the bank in good faith determines and demonstrates, by full documentation, that renewal of the lease is necessary to avoid significant financial loss and recover its total investment in, plus the cost of financing, the property.

Dated: June 13, 1991.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 91-14511 Filed 6-19-91; 8:45 am]

BILLING CODE 4810-33-M

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. 91-NM-119-AD; Amendment 39-7045; AD 91-14-03]

**Airworthiness Directives; McDonnell Douglas Model MD-11 and MD-11F Series Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to McDonnell Douglas Model MD-11 and MD-11F series airplanes, which requires inspections and repositioning, if necessary, of the tail tank fuel distribution pipe assembly in the left main landing gear wheel well. This amendment is prompted by an in-service report of an uncontained fuel leak in the wheel well. This condition, if not corrected, could result in a fuel leak in the left main landing gear wheel well area, and the possibility of an in-flight or ground fire.

**DATES:** Effective July 5, 1991.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 5, 1991.

**ADDRESSES:** The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: DC-10 Technical Publications, Technical Administrative Support, C1-L5B. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Raymond Vakili, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 938-5262.

**SUPPLEMENTARY INFORMATION:** Recently, an uncontained fuel leak was detected in the left main landing gear wheel well of a McDonnell Douglas Model MD-11 series airplane. Investigation has revealed that the tail tank fuel pipe assembly migrated, which allowed the



O-ring that provides the seal between the shroud of the pipe assembly and coupling shroud assembly to be exposed. This resulted in fuel leaking into the main landing gear wheel well. This condition, if not corrected, could result in a fuel leakage in the left main landing gear wheel well area, and the possibility of an in-flight or ground fire.

The FAA has reviewed and approved McDonnell Douglas MD-11 Alert Service Bulletin A28-14, dated April 11, 1991, which describes procedures to visually inspect the tail tank fuel pipe assembly for the proper position in the left main landing gear wheel well area, and to reposition the fuel pipe assembly, if required. The FAA has also reviewed and approved McDonnell Douglas Service Bulletin 28-14, dated May 17, 1991, which describes procedures for installing a fuel pipe assembly shroud support bracket; installation of this bracket precludes the need for the visual inspections.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires repetitive visual inspections and repositioning, if necessary, of the tail tank fuel distribution pipe assembly in the left main landing gear wheel well, in accordance with Alert Service Bulletin A28-14, previously described. To terminate the inspections, operators may install the support bracket in accordance with Service Bulletin 28-14.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

This is considered interim action. The FAA may consider further rulemaking to require additional corrective action to minimize migration of the tail tank fuel distribution pipe assemblies and the possibility of fuel leakage on Model MD-11 and MD-11F airplanes.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is

impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

#### PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

#### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

91-14-03. McDonnell Douglas: Amendment 39-7045. Docket No. 91-NM-119-AD.

Applicability: Model MD-11 and MD-11F series airplanes, with manufacturer's fuselage numbers 447 through 449, 451 through 461, and 463, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent fuel leakage from the tail tank fuel distribution pipe assembly shroud coupling when the shroud system contains fuel, accomplish the following:

(a) Within 30 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 100 flight hours, visually inspect the tail tank fuel distribution pipe assembly located in the left main landing gear wheel well for correct pipe flange position, in accordance with the accomplishment instructions of McDonnell Douglas MD-11 Alert Service Bulletin A28-14, dated April 11, 1991 (hereinafter referred to as SB A28-14).

(1) If the pipe flange measurement is within the dimensions specified in SB A28-14, no action is required.

(2) If the pipe flange measurement is not within the dimensions specified in SB A28-14, prior to further flight, accomplish either subparagraph (a)(2)(i) or (a)(2)(ii) of this AD:

(i) Reposition the pipe assembly in accordance with the accomplishment instructions of SB A28-14 and continue inspections at intervals not to exceed 100 flight hours; or

(ii) Install a fuel pipe assembly shroud support bracket in accordance with the accomplishment instructions of McDonnell Douglas MD-11 Service Bulletin 28-14, dated May 17, 1991.

(b) Installation of a fuel pipe assembly shroud support bracket in accordance with the accomplishment instructions of McDonnell Douglas Service Bulletin 28-14, dated May 17, 1991, constitutes terminating action for the requirements of paragraph (a) of this AD.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may concur or comment and then send it to the Manager, Los Angeles ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(e) The inspection, repositioning, and installation requirements shall be done in accordance with McDonnell Douglas MD-11 Service Bulletin A28-14, dated April 11, 1991; and Service Bulletin 28-14, dated May 17, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: DC-10 Technical Publications, Technical Administrative Support, C1-L5B. Copies may be inspected at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

This amendment (39-7045, AD 91-14-03) becomes effective on July 5, 1991.

Issued in Renton, Washington, on June 12, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.  
[FR Doc. 91-14726 Filed 6-19-91; 8:45 am]

BILLING CODE 4910-13-M



SECURITIES AND EXCHANGE  
COMMISSION

## 17 CFR Part 240

[Release No. 34-29285]

**Exemption of Stocks Contained in  
Standardized Market Baskets From  
Registration Under Section 12(a) of  
the Securities Exchange Act of 1934****AGENCY:** Securities and Exchange  
Commission.**ACTION:** Final rule.

**SUMMARY:** The Commission announces the adoption of Rule 12a-7 (Rule) under the Securities Exchange Act of 1934 (Act). The rule exempts from the registration provisions of section 12(a) of the Act securities that are traded as part of a market basket transaction provided that each component security otherwise is a national market system security and is listed and registered on another national securities exchange or quoted on the National Association of Securities Dealers Automated Quotation System. In addition, to be eligible for an exemption pursuant to Rule 12a-7, the stocks must be part of a standardized market basket containing at least 100 securities. The exemption is applicable only to facilitate the trading of securities as part of a standardized market basket that previously has been approved for exchange trading by the Commission pursuant to the requirements of section 19(b) of the Act.

**EFFECTIVE DATE:** July 22, 1991.

**FOR FURTHER INFORMATION CONTACT:** Sharon Lawson, Special Counsel, Office of Self-Regulatory Oversight, (202) 272-2406, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

**SUPPLEMENTARY INFORMATION:****I. Introduction and Background**

The Securities and Exchange Commission ("Commission") is today announcing the adoption of Rule 12a-7 ("Rule") under the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Under the Rule, securities comprising a market basket<sup>2</sup>

can be traded on a national securities exchange, solely as part of the market basket, without registering the securities on such an exchange under section 12 of the Act, provided the conditions specified in the rule are satisfied at or prior to execution of the market basket trade.

The adoption of the Rule will permit the New York Stock Exchange, Inc. (NYSE) (and, potentially other exchanges in the future) to trade market basket contracts<sup>3</sup> without having to register, or be granted unlisted trading privileges (UTP), under section 12 of the Act in replacement securities in the indexes on which the contracts are based.<sup>4</sup>

As discussed in the Proposing Release, the Commission proposed the rule because of concern that trading in market baskets could be disrupted if the NYSE had to submit a UTP application for replacement securities in the index on which the market baskets are based and wait the 10 day notice period required under the Act before it could trade the replacement security as part of its market basket.<sup>5</sup> As discussed in

and receive dividends), and will be free to sell or hold each stock separately.

<sup>3</sup> The NYSE trades Exchange Stock Portfolios based on the Standard & Poor's ("S&P") 500 Portfolio Index. Trading volume has been relatively low in market baskets. Since the commencement of trading in October 1989, a total of 269 baskets have traded on the NYSE, with only four basket contracts traded during the last six months.

At the time the rule was proposed the Chicago Board Options Exchange ("CBOE") also traded market baskets based on the S&P 500 Index. The CBOE, however, has informed the Commission that it is delisting market baskets from exchange trading because of lack of investor interest, the last trade having occurred on November 2, 1989. See letter from Robert P. Ackermann, Vice President, CBOE to Howard Kramer, Assistant Director, Commission, dated December 18, 1990. Nevertheless, CBOE rules would permit it to trade market baskets on the S&P 500 and 100 Indexes, at a future date, if it so desired.

<sup>4</sup> Section 12 of the Act requires any security, other than an exempt security, to be registered in accordance with the requirements of that section before it can be traded on a national securities exchange. Section 12(f) of the Act, however, permits the Commission to extend UTP to national securities exchanges if the security is registered pursuant to section 12 of the Act or would be required to be so registered except for the exemption from registration provided in section 12(g) of the Act. Under section 12(f)(5) of the Act, before approving an application for UTP, 10 days notice must be given to the issuer of the security and the exchange on which the security is registered.

<sup>5</sup> Changes in an index can occur at any time for a variety of reasons such as the elimination of a component security due to a merger, acquisition, or going private transaction. As discussed in the Proposing Release, if an exchange traded contract was unable to be amended immediately, buyers, in addition to incurring unnecessary transaction costs, would incur new basis risk because the price of the index, as amended, could deviate by more than a minimal amount from the price of the component stocks of the market basket contract.

more detail below, the Commission believes the limited exemption that will be provided by the Rule will avoid unduly disrupting the trading in stock market baskets on an exchange any time a stock in an index on which the market basket is based is replaced with another security.<sup>6</sup>

**II. Discussion**

As adopted Rule 12a-7 provides a limited exemption from the registration requirements of section 12(a) of the Act for those stocks that are traded on an exchange only as part of a standardized market basket.<sup>7</sup> Under the terms of the rule the exemption only is available for stocks included in a standardized market basket if the market basket has been approved by the Commission for listing on a national securities exchange pursuant to the requirements of section 19(b) of the Act. Accordingly, the exemption under the Rule is immediately available for those stocks included in the Commission approved market basket currently traded by the NYSE.<sup>8</sup>

Further, to be eligible for the exemption under the Rule, a stock must be a national market system (NMS) security as defined in rule 11Aa2-1 under the Act and either (1) registered on another national securities exchange or (2) quoted on the National Association of Securities Dealers Automated Quotation (NASDAQ) System. These requirements are important for several reasons.

First, the NMS designation requirement is significant because to be designated a NMS security last sale information must be reported through a consolidated transaction reporting system established pursuant to rule 11Aa3-1 under the Act. Although individual transactions in exempted securities would not be permitted under the rule, the Commission believes that consolidated transaction data is an important requirement for all individual

<sup>6</sup> Since Commission approval of market baskets in October 1989, there have been UTP requests for approximately nine replacement stocks. The CBOE and NYSE were permitted to trade these replacement stocks immediately pursuant to no-action letters issued by the Commission staff on the condition, among other things, that the markets promptly submit UTP requests for the replacement stocks. To date no comments on the UTP requests for replacement securities have been received.

<sup>7</sup> Under the rule, the term standardized market basket is defined as a group of at least 100 stocks purchased or sold in a single execution and at a single trading location with physical delivery and transfer of ownership of each component stock resulting from such execution.

<sup>8</sup> See note 3, *supra*. Of course a stock would have to meet the other requirements of the rule to be granted an exemption from registration.

<sup>1</sup> The Commission proposed for comment Rule 12a-7 in Securities Exchange Act Release No. 27834 (March 22, 1990), 55 FR 11387 (Proposing Release). No comments were received on the proposal.

<sup>2</sup> Market baskets or stock portfolios enable the trading of standardized baskets of stocks at an aggregate price in a single execution on an exchange floor. A trade in a market basket or portfolio results in a transfer to the buyer of ownership of each of the component stocks. When the transaction is completed, the buyer will be entitled to all rights attending ownership of the basket component stocks (including rights to vote



stocks traded as part of a market basket on an exchange, because a buyer of a basket takes ownership of each component stock and will be free to sell or hold each stock separately.

Second, the requirements noted above ensure that there is adequate information available to the public on all stocks eligible for an exemption under the rule. This is because all exempted exchange-traded stocks under the rule must be registered on at least one national securities exchange under section 12(b). That section requires specific information and disclosure from issuers seeking to have their stock exchange traded.

As for over-the-counter (OTC) issues eligible for an exemption under the rule, the NMS requirement coupled with the requirement for NASDAQ quotation means that only those stocks meeting the National Association of Securities Dealers' (NASD) NASDAQ/NMS eligibility criteria would be entitled to an exemption under the rule. Under that criteria, such stocks, with limited exceptions for insurance and investment companies, must be registered under section 12(g) of the Act.<sup>9</sup> This is important because the information that must be provided by the issuer to register securities under section 12(g) is substantially similar to the information required to register a security on a national securities exchange under section 12(b). Moreover, issuers having securities registered under section 12 of the Act have continuing reporting obligations under other sections of the Act.<sup>10</sup> Accordingly, the requirements that stocks be NMS stocks that are either registered on a national securities exchange or quoted on NASDAQ to be eligible for an exemption under the Rule, ensures that information on such stocks is readily and publicly available, consistent with the purposes underlying the registration requirements of section 12.

Finally, we note that OTC securities that are designated NASDAQ/NMS stocks must meet specific quantitative and qualitative requirements similar to

those required for exchange listed stocks.<sup>11</sup> Accordingly, the NMS designation requirement, coupled with NASDAQ quotation or exchange listing, will ensure that all the stocks eligible for an exemption under the Rule are active and liquid stocks.

In summary, the Commission believes that the conditions of the rule ensure that the regulatory purposes underlying section 12 will be met. For example, as noted above, with the limited exception for certain investment and insurance companies, only securities registered under either section 12(b) or 12(g) of the Act can be exempted under the rule, thereby assuring that information about the issuers of those securities is available to the public. Further, last sale reports must be available on a security for it to be eligible for the exemption. Finally, the Commission will continue to ensure that it is appropriate to grant stocks comprising a particular market basket an exemption under section 12(a) through its authority under section 19(b) to review market basket proposals of the national securities exchanges.<sup>12</sup>

The Commission recognizes that rule 12a-7 has the effect of eliminating the requirements for a discrete notice and comment period for each unlisted trading privilege application. The Commission believes that this result is justified because inclusion of a stock in a market basket should not have the potential of changing the primary locus of trading in the individual stock. In this regard, we note that each individual stock that is a component of a market basket only accounts for a small component of the total index value.<sup>13</sup>

<sup>11</sup> For example, these requirements set forth quantitative standards for inclusion in NASDAQ/NMS such as minimum public float and market value.

<sup>12</sup> In limiting the exemption under the rule to stocks included in market baskets that are only traded on a national securities exchange, the Commission does not intend to raise any implications that it believes such a market basket would not be appropriate for quotation on the NASDAQ System. Unlike the registration requirements for securities traded on exchanges under section 12(a) of the Act, there is no section of the Act that would prohibit the NASD from trading exchange listed stocks as part of a market basket approved by the Commission. The Commission, however, recognizes the competitive implications of exchange off-board trading restrictions that would prohibit exchange members from trading certain securities off an exchange floor. In this context, the Commission would be concerned about any exchange restrictions that would limit the ability of a market to quote and trade a market basket product similar to the market baskets approved for trading on the NYSE and CBOE.

<sup>13</sup> As noted above, the rule only applies to standardized market baskets which contain at least 100 stocks.

and that the 12(a) exemption under the rule is only applicable to trading in the market basket. In addition, no issuer to date has commented on the inclusion of its stock in market basket trading. Accordingly, we believe that the impact on a particular underlying stock will be minimal. Finally, through the section 19(b) review process of market basket proposals and public comment on such proposals, the Commission will have an opportunity to assess the overall impact market basket trading may have on the stocks which are included in the basket and address any concerns.<sup>14</sup>

In light of the potential benefits to be achieved by market basket trading, we do not believe on balance that any further regulatory goals would be achieved by requiring the exchanges to register, or apply for UTP, on each individual stock included in a market basket. To the contrary, it is our belief that without the availability of the exemption in the rule, trading in market baskets could be unduly disrupted every time a security is replaced by another for little public benefit.

### III. Regulatory Flexibility Act Status

Pursuant to section 605(b) of the Regulatory Flexibility Act,<sup>15</sup> when the Commission proposed rule 12a-7, the Chairman of the Commission certified that the proposed rule if adopted, would not have a significant economic impact on a substantial number of small entities. The Commission did not receive any comments on the Chairman's certification.

### IV. Effects on Competition and Other Findings

Section 23(a)(2) of the Act<sup>16</sup> requires the Commission, in adopting rules under the Act, to consider the anti-competitive effect of such rules, if any, and to balance any impact against the regulatory benefits gained in terms of furthering the purposes of the Act. The Commission has considered the adoption of the rule in light of the standards cited in section 23(a)(2) and believes that the rule's adoption will not impose any burden on competition not necessary or appropriate in furtherance of the Act. This finding is made for the reasons set forth above in this release. As stated herein, the rule is designed to

<sup>14</sup> Although not all securities ultimately included in a market basket will be known at the time of the Commission's review of a proposal to trade a market basket due to future substitutions, the Commission will know the characteristics and type of securities which are intended to be included in a proposed market basket.

<sup>15</sup> 5 U.S.C. 605(b).

<sup>16</sup> 15 U.S.C. 78w(a)(2) (1988).

<sup>9</sup> See NASD By-Laws, Schedule D, Part III, Para. 1810. The NASD's rules authorize the securities of insurance companies meeting the conditions of section 12(g)(2)(G) of the Act and closed-end investment companies registered under section 8 of the Investment Company Act of 1940 and whose securities are registered under the Securities Act of 1933 to be designated NASDAQ/NMS securities. Such issuers are subject to comprehensive disclosure under State law and the Federal securities laws, respectively. American Depository Receipts based on the equity security of a foreign issuer also are eligible for NASDAQ/NMS inclusion if the underlying equity securities are registered under section 12 of the Act.

<sup>10</sup> See, e.g., section 13 of the Act and the rules thereunder.



exempt from the registration requirements of section 12(a) of the Act certain stocks that are only traded on an exchange as part of a Commission approved market basket.

Insofar as the rule contains limitations, they are designed to promote the purposes of the Act by ensuring that adequate information will be available on the stocks included in a market basket consistent with the purposes underlying the section 12 registration requirements.

#### V. Statutory Basis

Rule 12a-7 is being adopted pursuant to 15 U.S.C. 78a *et seq.*, particularly sections 3(a)(12), 6, 11A, 12 and 23(a)(1) of the Act.

#### List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

#### VI. Text of Rule

For the reasons set out in the preamble, title 17, chapter II, part 240 of the Code of Federal Regulations is amended as set forth below.

#### PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 is amended by adding the following citation after the general authority:

**Authority:** 15 U.S.C. 77c, 77d, 77e, 78c, 78d, 78i, 78j, 78l, 78m, 78n, 78o, 78p, 78s, 78w, 78x, 79q, 79t, 80a-29, 80a-37, unless otherwise noted.

\* \* \* § 240.12a-7 also issued under 15 U.S.C. 78a *et seq.*, particularly secs. 3(a)(12), 15 U.S.C. 78c(a)(12), 6, 15 U.S.C. 78(f), 11A, 15 U.S.C. 78k, 12, 15 U.S.C. 78(l), and 23(a)(1), 15 U.S.C. 78(w)(a)(1).

2. By adding § 240.12a-7 as follows:

#### § 240.12a-7 Exemption of stock contained in standardized market baskets from section 12(a) of the Act.

(a) Any component stock of a standardized market basket shall be exempt from the registration requirement of section 12(a) of the Act, solely for the purpose of inclusion in a standardized market basket, provided that all of the following terms and conditions are met:

(1) The standardized market basket has been duly approved by the Commission for listing on a national securities exchange pursuant to the requirements of section 19(b) of the Act; and

(2) The stock is a National Market System security as defined in rule 11Aa2-1 under the Act (17 CFR 240.11Aa2-1) and is either:

(i) Listed and registered for trading on a national securities exchange by the issuer or

(ii) Quoted on the National Association of Securities Dealers Automated Quotation System;

(b) When used in this rule, the term standardized market basket means a group of at least 100 stocks purchased or sold in a single execution and at a single trading location with physical delivery and transfer of ownership of each component stock resulting from such execution.

By the Commission.

Dated: June 11, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-14515 Filed 6-19-91; 8:45 am]

BILLING CODE 8010-01-M

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 52 and 60

[FRL-3966-1]

#### Approval and Promulgation of Implementation Plans; ND Standards of Performance for New Stationary Sources

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is today providing notice that it granted delegation of authority to North Dakota on January 7, 1991 to implement and enforce the New Source Performance Standards (NSPS) for 40 CFR part 60, subpart QQQ. This is a result of a request for delegation from the State of North Dakota on June 26, 1990.

This notice also approves revisions to the North Dakota NSPS as part of the State Implementation Plan (SIP). Although the North Dakota NSPS were originally approved as part of the SIP, subsequent revisions to the State's NSPS were approved by delegation of authority to the State to implement and enforce the NSPS and were not included as part of the SIP. This created much confusion on the enforcement of these NSPS. This notice now clarifies past EPA actions by approving all of the State's NSPS regulations as part of the SIP.

**DATES:** *Effective Date:* This action will become effective on August 19, 1991, unless notice is received by July 22, 1991, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice

will be published in the Federal Register.

**ADDRESSES:** Copies of the submittal are available for public inspection between 8 a.m. and 4 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, region VIII, Air Programs Branch, 999 18th Street, suite 500, Denver, CO 80204-2405

Division of Environmental Engineering, State Department of Health and Consolidated Laboratories, P.O. Box 5520, Bismarck, North Dakota 58502-5520

Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

**FOR FURTHER INFORMATION CONTACT:** Vicki Stamper, Environmental Protection Agency, region VIII, Air Programs Branch, suite 500, Denver, CO 80202-2405, (303) 293-1876, (FTS) 330-1876.

**SUPPLEMENTARY INFORMATION:** EPA has two options for the approval of a State's NSPS regulations. Section 111(c) of the Clean Air Act permits EPA to delegate to the States the authority to implement and enforce standards set forth in 40 CFR part 60, NSPS. EPA also has the option of approving State NSPS regulations as part of the SIP. The difference between these two options is in the enforcement abilities of EPA and the State. Originally, North Dakota's NSPS regulations were approved as part of the SIP. However, subsequent revisions to the State's NSPS regulations were not approved as part of the SIP. Instead, the State was delegated the authority to implement and enforce the regulations. This resulted in much confusion over the authority for enforcement of the North Dakota NSPS regulations. By approving the June 26, 1990 revisions to North Dakota's NSPS regulations as part of the SIP, the authority for enforcement will be consistent for all of the State's NSPS regulations.

On May 26, 1976, the state of North Dakota submitted their original procedures for NSPS. EPA approved these NSPS regulations as part of the SIP on May 26, 1977 (42 FR 26978). Subsequent revisions to the State's NSPS regulations were delegated to the State on September 17, 1984 (49 FR 36328), December 16, 1988 (53 FR 50524), and July 17, 1990 (55 FR 29015).

On June 26, 1990, the State of North Dakota submitted revisions to its NSPS regulations. Such revisions included the addition of one NSPS for the following source category: Volatile organic compounds (VOC) emissions from



petroleum refinery wastewater systems (40 CFR part 60, subpart QQQ). Pursuant to such submittal, on January 7, 1991, delegation was given with the following letter:

Hon. George A. Sinner,  
Governor of North Dakota, State of North  
Dakota, Office of the Governor,  
Bismarck, North Dakota 58505.

Dear Governor Sinner: This letter is in response to your submittal dated June 26, 1990. The submittal was a revision to the Implementation Plan for the Control of Air Pollution for the State of North Dakota. The submittal modified several chapters of the State's Air Pollution Control Regulations: the Prevention of Significant Deterioration of Air Quality (PSD) regulations to incorporate the nitrogen dioxide (NO<sub>2</sub>) increments; the Ambient Air Quality Standards to amend the State's hydrogen sulfide standard; the Standards of Performance for New Stationary Sources (NSPS); the Emission Standards for Hazardous Air Pollutants (NESHAPS); and various other minor changes. This letter addresses only the modification to the NSPS chapter which added a new category of NSPS. The remaining regulations are being addressed through separate actions.

Subsequent to states adopting NSPS regulations, the Environmental Protection Agency (EPA) delegates the authority for the implementation and enforcement of those NSPS so long as those regulations are equivalent to, or more stringent than, the federal regulations. EPA, therefore, is acting on the delegation of authority to North Dakota for implementation and enforcement of one NSPS.

EPA has reviewed the pertinent statutes and regulations of the State of North Dakota and has determined that they provide an adequate and effective procedure for the implementation and enforcement of the NSPS by the State of North Dakota. Therefore, pursuant to section 111(c) of the Clean Air Act (CAA), as amended, and 40 CFR part 60, EPA hereby delegates its authority for the implementation and enforcement of the NSPS to the State of North Dakota as follows:

(A) Responsibility for all sources located, or to be located in the State of North Dakota subject to the standards of performance for new stationary sources promulgated in 40 CFR part 60. The category of new stationary sources covered by this delegation is as follows: volatile organic compounds (VOC) emissions from the petroleum refinery wastewater systems (subpart QQQ).

(B) Not all authorities of NSPS can be delegated to states under section 111(c) of the CAA. The EPA Administrator retains the authority to implement those sections of NSPS that require: (1) Approving equivalency determinations and alternative test methods; (2) decision making to ensure national consistency; and (3) EPA rulemaking to implement. Therefore, EPA cannot delegate the authority provided in 40 CFR 60.694 [33-15-12-04(30)(1) in North Dakota's Regulations].

(C) As 40 CFR part 60 is updated by EPA, North Dakota must revise its rules and regulations accordingly.

This delegation is based upon and is a continuation of the same conditions as those

stated in EPA's original delegation letter of August 30, 1976, except that condition 5, relating to Federal facilities, has been voided by the Clean Air Act Amendments of 1977. It is also important to note that EPA retains concurrent enforcement authority as stated in condition 2 and if at any time there is a conflict between a State and Federal Regulation (40 CFR Part 60), the Federal Regulation must be applied if it is more stringent than that of the State, as stated in condition 7 of our letter dated August 30, 1976.

A copy of the August 30, 1976 letter was published in the notices section of the *Federal Register* of October 13, 1976 (41 FR 44884), along with the associated rulemaking notifying the public that certain reports and applications required from operators of new or modified sources shall be submitted to the State of North Dakota (41 FR 44859). Copies of the *Federal Register* are enclosed for your convenience.

Since this delegation is effective immediately, there is no need for the State to notify the EPA of its acceptance. Unless we receive written notice of objections from you within ten days of the date on which you receive this letter, the State of North Dakota will be deemed to have accepted all the terms of this delegation.

Sincerely,

James J. Scherer,

Regional Administrator.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective August 19, 1991, unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective August 19, 1991.

#### Final Action

As stated above, the North Dakota NSPS rules have been processed under separate actions. This notice clarifies that all of North Dakota's NSPS rules are approved as part of the SIP. The NSPS authority, however, does not extend beyond what was stated in the above letter, i.e., EPA retains the authority specified in 40 CFR 60.694. Federal approval of the North Dakota NSPS rules includes only those regulations which are equal and consistent with the Federal regulations. Approval of such rules are noted in 40 CFR 52.1820(c) and 40 CFR 60.4(c).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

This action has been classified as a table 3 action by the Regional Administrator under procedures published in the *Federal Register* on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget waived table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this section must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from the date of publication). Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review must be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2).)

The Agency has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

#### List of Subjects

##### 40 CFR Part 52

Air pollution control, Incorporation by reference.

##### 40 CFR Part 60

Air pollution control, Asphalt, Asphalt concrete plants, Bulk gasoline terminals, Coal preparation plants, Electric utility steam generators, Equipment leaks of volatile organic compounds (VOC's), Fossil fuel fired steam generators, Grain elevators, Incinerators, Lime manufacturing plants, Nitric acid plants, Nonmetallic mineral processing plants, Onshore natural gas processing,



Petroleum, Petroleum dry cleaners, Petroleum refineries, Petroleum liquid storage vessels, Phosphate fertilizer industry, Portland cement plants, Sewage treatment plants, Sulfur dioxide (SO<sub>2</sub>) emissions, Stationary gas turbines, Synthetic organic chemical manufacturing, Sulfuric acid plants, Volatile organic compounds (VOC), Petroleum refinery wastewater systems.

Dated: May 29, 1991.

Jack McGraw,  
Acting Regional Administrator.

#### PART 52—[AMENDED]

40 CFR part 52, subpart JJ is amended as follows:

##### Subpart JJ—North Dakota

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642

2. Section 52.1820 is amended to by adding paragraph (c)(21) to read as follows:

#### § 52.1820 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(21) On June 26, 1990, the Governor of North Dakota submitted revisions to the plan for new source performance standards.

(i) Incorporation by reference.

(A) Revisions to the Air Pollution Control Rules of the State of North Dakota Chapter 33-15-12 which was effective on June 1, 1990.

(ii) Additional material.

(A) January 7, 1991, letter from James J. Scherer, EPA, to George A. Sinner, Governor, State of North Dakota, on the

authority for implementation and enforcement of the New Source Performance Standards (NSPS) for 40 CFR part 60, subpart QQ.

#### PART 60—[AMENDED]

40 CFR part 60, subpart A, is amended as follows:

##### Subpart A—General Provisions

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7411

2. Section 60.4(c) is amended by revising the table to read as follows:

#### § 60.4 Address.

\* \* \* \* \*

(c) \* \* \*

#### DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS

[(NSPS) for Region VIII]

	Subpart	State					
		CO	MT <sup>1</sup>	ND <sup>1</sup>	SD <sup>1</sup>	UT <sup>1</sup>	WY
A	General Provisions .....	( )	( )	( )	( )	( )	( )
D	Fossil Fuel Fired Steam Generators .....	( )	( )	( )	( )	( )	( )
Da	Electric Utility Steam Generators .....	( )	( )	( )	( )	( )	( )
Db	Industrial-Commercial-Institutional Steam Generators .....	( )	( )	( )	( )	( )	( )
E	Incinerator .....	( )	( )	( )	( )	( )	( )
F	Portland Cement Plant .....	( )	( )	( )	( )	( )	( )
G	Nitric Acid Plants .....	( )	( )	( )	( )	( )	( )
H	Sulfuric Acid Plant .....	( )	( )	( )	( )	( )	( )
I	Asphalt Concrete Plants .....	( )	( )	( )	( )	( )	( )
J	Petroleum Refineries .....	( )	( )	( )	( )	( )	( )
K	Petroleum Storage Vessels (6/11/73-5/19/78) .....	( )	( )	( )	( )	( )	( )
Ka	Petroleum Storage Vessels (5/18/78-7/23/84) .....	( )	( )	( )	( )	( )	( )
Kb	Petroleum Storage Vessels (after 7/23/84) .....	( )	( )	( )	( )	( )	( )
L	Secondary Lead Smelters .....	( )	( )	( )	( )	( )	( )
M	Secondary Brass & Bronze Production Plants .....	( )	( )	( )	( )	( )	( )
N	Primary Emissions from Basic Oxygen Process Furnaces (after 6/11/73) .....	( )	( )	( )	( )	( )	( )
Na	Secondary Emissions from Basic Oxygen Process Furnaces (after 1/20/83) .....	( )	( )	( )	( )	( )	( )
O	Sewage Treatment Plants .....	( )	( )	( )	( )	( )	( )
P	Primary Copper Smelters .....	( )	( )	( )	( )	( )	( )
Q	Primary Zinc Smelters .....	( )	( )	( )	( )	( )	( )
R	Primary Lead Smelters .....	( )	( )	( )	( )	( )	( )
S	Primary Aluminum Reduction Plants .....	( )	( )	( )	( )	( )	( )
T	Phosphate Fertilizer Industry: Wet Process Phosphoric Plants .....	( )	( )	( )	( )	( )	( )
U	Phosphate Fertilizer Industry: Superphosphoric Acid Plants .....	( )	( )	( )	( )	( )	( )
V	Phosphate Fertilizer Industry: Diammonium Phosphate Plants .....	( )	( )	( )	( )	( )	( )
W	Phosphate Fertilizer Industry: Triple Super-Phosphate Plants .....	( )	( )	( )	( )	( )	( )
X	Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities .....	( )	( )	( )	( )	( )	( )
Y	Coal Preparation Plants .....	( )	( )	( )	( )	( )	( )
Z	Ferroalloy Production Facilities .....	( )	( )	( )	( )	( )	( )
AA	Steel Plants: Electric Arc Furnaces (10/21/74-8/17/83) .....	( )	( )	( )	( )	( )	( )
AAa	Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels (after 8/7/83) .....	( )	( )	( )	( )	( )	( )
BB	Kraft Pulp Mills .....	( )	( )	( )	( )	( )	( )
CC	Glass Manufacturing Plants .....	( )	( )	( )	( )	( )	( )
DD	Grain Elevator .....	( )	( )	( )	( )	( )	( )
EE	Surface Coating of Metal Furniture .....	( )	( )	( )	( )	( )	( )
GG	Stationary Gas Turbines .....	( )	( )	( )	( )	( )	( )
HH	Lime Manufacturing Plants .....	( )	( )	( )	( )	( )	( )
KK	Lead-Acid Battery Manufacturing Plants .....	( )	( )	( )	( )	( )	( )
LL	Metallic Mineral Processing Plants .....	( )	( )	( )	( )	( )	( )
MM	Automobile & Light Duty Truck Surface Coating Operations .....	( )	( )	( )	( )	( )	( )
NN	Phosphate Rock Plants .....	( )	( )	( )	( )	( )	( )
PP	Ammonium Sulfate Manufacturing .....	( )	( )	( )	( )	( )	( )
QQ	Graphic Arts Industry: Publication Rotogravure Printing .....	( )	( )	( )	( )	( )	( )
RR	Pressure Sensitive Tape & Label Surface Coating .....	( )	( )	( )	( )	( )	( )
SS	Industrial Surface Coating: Large Appliances .....	( )	( )	( )	( )	( )	( )
TT	Metal Coil Surface Coating .....	( )	( )	( )	( )	( )	( )
UU	Asphalt Processing & Asphalt Roofing Manufacture .....	( )	( )	( )	( )	( )	( )
VV	Synthetic Organic Chemicals Manufacturing: Equipment Leaks of VOC .....	( )	( )	( )	( )	( )	( )



## DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS—Continued

[(NSPS) for Region VIII]

	Subpart	State					
		CO	MT <sup>1</sup>	ND <sup>1</sup>	SD <sup>1</sup>	UT <sup>1</sup>	WY
WW	Beverage Can Surface Coating Industry .....	( )	( )			( )	( )
XX	Bulk Gasoline Terminals .....	( )	( )	( )		( )	( )
AAA	Residential Wood Heaters .....					( )	( )
BBB	Rubber Tires .....					( )	( )
FFF	Flexible Vinyl & Urethane Coating & Printing .....	( )	( )			( )	( )
GGG	Equipment Leaks of VOC in Petroleum Refineries .....	( )	( )	( )		( )	( )
HHH	Synthetic Fiber Production .....	( )	( )			( )	( )
III	VOC Emissions from the Synthetic Organic Chemical Manufacturing Industry Air Oxidation Unit Processes .....					( )	( )
JJJ	Petroleum Dry Cleaners .....	( )	( )	( )		( )	( )
KKK	Equipment Leaks of VOC from Onshore Natural Gas Processing Plants .....	( )	( )	( )		( )	( )
LLL	Onshore Natural Gas Processing: SO <sub>2</sub> Emissions .....	( )	( )	( )		( )	( )
NNN	VOC Emissions from the Synthetic Organic Chemical Manufacturing Industry Distillation Operations .....					( )	( )
OOO	Nonmetallic Mineral Processing Plants .....	( )	( )	( )	( )	( )	( )
PPP	Wool Fiberglass Insulation Manufacturing Plants .....	( )	( )			( )	( )
QQQ	VOC Emissions from Petroleum Refinery Wastewater Systems .....			( )		( )	( )
SSS	Magnetic Tape Industry .....					( )	( )
TTT	Plastic Parts for Business Machines Coatings .....					( )	( )
VVV	Polymeric Coating of Supporting Substrates .....					( )	( )

<sup>\*</sup> Indicates approval of State regulation.<sup>1</sup> Indicates approval of New Source Performance Standards as part of the State Implementation Plan (SIP).

[FR Doc. 91-14620 Filed 6-19-91; 8:45 am]

BILLING CODE 5560-50-M

## 40 CFR Part 180

[PP 9F3744/R1123; FRL-3931-9]

RIN 2070 AB-78

## M-One Plus Bioinsecticide; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** This rule establishes an exemption from the requirement of a tolerance for residues of the insecticide M-One Plus<sup>®</sup> Bioinsecticide containing the delta endotoxin of *Bacillus thuringiensis* variety *San Diego* encapsulated in killed *Pseudomonas fluorescens* when used in or on all food and feed crops. This request for an exemption from the requirement of a tolerance was requested by Mycogen Corp. This regulation eliminates the need to establish a maximum permissible level for residues of this killed microbial pesticide.

**EFFECTIVE DATE:** Effective on June 20, 1991.

**ADDRESSES:** Written objections, identified by document control number [PP 9F3744/R1123], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Phillip O. Hutton, Product Manager (PM), 17, Registration Division (H7505C), Office of Pesticide Programs,

Environmental Protection Agency, Rm. 207, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-557-2690.

**SUPPLEMENTARY INFORMATION:** EPA issued a notice in the *Federal Register* of March 19, 1989 (54 FR 21664), which announced that it had received pesticide petition (PP) 9F3744 from the Mycogen Corporation, 5451 Oberlin Drive, San Diego, CA 92121, proposing that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the insecticide M-One Plus Bioinsecticide in or on all raw agricultural commodities (RACs) when formulated in an encapsulated system.

No comments were received in response to this notice of filing. However, comments were received when the EPA published its receipt of an application for an Experimental Use Permit (and temporary tolerance exemption) for this pesticide. The comments received raised a concern that the EPA would register M-One Plus under the existing 40 CFR 180.1011 tolerance exemption for *Bacillus thuringiensis*. EPA responded by indicating to the commenter that MVP was considered a new active ingredient and therefore would require a unique risk assessment and determination regarding the requirement for a tolerance or exemption from the requirement for a tolerance. This satisfied the concerns of the commenter. The experimental use permit and temporary exemption from the requirement of a tolerance were then granted.

M-One Plus is a killed microbial pesticide and is to be registered for the

control of coleopteran larvae, through the toxic action of the *B. t.* protein crystal. This protein toxin is selective for the larvae of coleoptera. Such specificity is advantageous in limiting the potential effects on nontarget organisms, especially beneficial parasites and predators in other orders of insects. The recommended application rates are as follows: 1.5 to 4 quarts per acre depending on the severity of the larval infestation. For best results, the initial spray must be made when eggs hatch and small larvae are first observed.

## Residue Chemistry Data

Residue chemistry data were not required. Such data were determined to be necessary only if the submitted toxicology studies indicated that additional Tier II or III toxicology data would be required as specified in 40 CFR 158.165(e). The submitted toxicology data for this use indicated that the product is of low mammalian toxicity/pathogenicity and Tier II or III data were not required. Therefore, no residue data are required in order to grant an exemption from the requirement of a tolerance for M-One Plus Bioinsecticide.

## Toxicology Data

The following data submitted in support of the petition and other relevant material have been evaluated. The toxicology data considered in support of this exemption from the requirements of a tolerance include the following:

1. *Acute Oral Toxicity in Rats*  
(Technical Grade Active Ingredient)



[TGAI]), Guideline Nos. 81-1/152-30. The acute oral LD<sub>50</sub> for the TGAI as indicated by the data is greater than 5050 mg/kg (4.63 ml/kg), the highest dose tested, when administered undiluted to albino rats.

2. *Acute Dermal Toxicity in Rats (Technical)*, Guideline Nos. 81-2/152-31. The acute dermal LD<sub>50</sub> for the TGAI as indicated by the data is greater than 2020 mg/kg (1.85 mL/kg), the highest dose tested, when administered undiluted to albino rats.

3. *Acute Pulmonary Toxicity in Rats (Technical)*, Guideline Nos. 81-3/152-32. The acute pulmonary LD<sub>50</sub> for the TGAI (technical) as indicated by the data is greater than 0.1 mL per animal, the highest dose tested, or approximately 10<sup>6</sup> nonviable cells per animal when administered undiluted to albino rats.

4. *Acute Intravenous Toxicity in Rats (Technical)*, Guideline Nos. 152-33. The acute intravenous LD<sub>50</sub> for the TGAI (technical) as indicated by the data is greater than 0.5 mL per animal, the highest dose tested, or approximately 10<sup>6</sup> nonviable cells per animal when administered as a 1:100 dilution in sterile water to albino rats.

5. *Primary Dermal Irritation in Rabbits (Technical)*, Guideline Nos. 81-5/152-34. The TGAI produced mild dermal irritation with a primary irritation score of 2.96 when tested in albino rabbits and is not considered a primary irritant.

6. *Eye Irritation in Rabbits (Technical)*, Guideline Nos. 81-4/152-35. The TGAI technical was rated as minimally irritating in nonwashed eyes of albino rabbits when administered as 0.1 mL of a 50 percent v/v solution of the test material in sterile water. The maximum average irritation score was 3.7 and the test material was categorized in Toxicity Category III.

The results of the above studies indicate that the potential acute toxicity/pathogenicity of M-One Plus is sufficiently low to support the proposed exemption from the requirements for a tolerance on all raw agricultural commodities (RACs).

1. M-One Plus Bioinsecticide is *Bacillus thuringiensis* variety *San Diego* delta endotoxin which has been genetically engineered into *Pseudomonas fluorescens* which is subsequently rendered nonviable. This effectively creates a biologically encapsulated delta endotoxin as the active ingredient. This also renders the endotoxin less sensitive to environmental ultraviolet light inactivation.

2. This product is an aqueous flowable, based on an encapsulated system.

3. M-One Plus Bioinsecticide will be applied on a variety of vegetable crops at rates varying from 1.5 to 4 quarts per acre.

A lack of demonstrable toxicity to M-One Plus Bioinsecticide indicates that its use to aid in control of a wide variety of coleopteran pests would not result in hazards to public health. The data submitted or referenced in this petition and other relevant material have been evaluated. The toxicological data considered in support of the exemption from the requirements of a tolerance did not show any deleterious effects that would indicate a cause for concern from the use of this product.

The acceptable daily intake and maximum permissible intake considerations are not relevant to this petition, because of the low toxicity/pathogenicity demonstrated in the submitted studies.

M-One Plus Bioinsecticide is considered useful for the purpose for which the exemption from the requirements of a tolerance is sought. It is concluded that a tolerance for M-One Plus is not necessary to protect the public health. Therefore, 40 CFR part 180 is amended as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the *Federal Register*, file written objections and/or a request for a hearing with the Hearing Clerk, at the address given above. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested and the requestor's contentions on each such issue pursuant to 40 CFR 178.32. A request for the hearing will be granted if the Administrator determines that the material submitted shows the following: there is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account the uncontested claims or facts to the contrary; resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances

or raising tolerance levels, or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the *Federal Register* of May 4, 1981 (46 FR 24950).

#### List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests

Dated: June 17, 1991.

Douglas D. Camp,   
 Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

#### PART 160—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In subpart D, new § 180.1108 is added, to read as follows:

**§ 180.1108 Delta endotoxin of *Bacillus thuringiensis* variety *San Diego* encapsulated into killed *Pseudomonas fluorescens*; exemption from the requirement of a tolerance.**

The delta endotoxin of *Bacillus thuringiensis* variety *San Diego* encapsulated into killed *Pseudomonas fluorescens* is exempt from the requirements of a tolerance in or on all raw agricultural commodities.

[FR Doc. 91-14824 Filed 6-19-91; 8:45 am]

BILLING CODE 6560-50-F

#### 40 CFR Part 180

[PP 1F3963/R1122; FRL-3931-8]

RIN 2070-AB78

#### MVP Bioinsecticide; Tolerance Exemption

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule establishes an exemption from the requirement of a tolerance for residues of the insecticide MVP® Bioinsecticide containing the delta endotoxin of *Bacillus thuringiensis* variety *kurstaki* encapsulated in killed *Pseudomonas fluorescens* when used in or on all food and feed crops. This rule eliminates the need to establish a maximum permissible level for residues of this killed microbial. Mycogen Corp. requested this tolerance exemption.



**EFFECTIVE DATE:** Effective on June 20, 1991.

**ADDRESSES:** Written objections, identified by the document control number [PP 1F3963/R1122], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Phillip O. Hutton, Product Manager (PM) 17, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-557-2690.

**SUPPLEMENTARY INFORMATION:** EPA issued a notice in the *Federal Register* of May 1, 1991 (56 FR 1997), which announced that it had received pesticide petition (PP) 1F3963 from the Mycogen Corp., 5451 Oberlin Drive, San Diego, CA 92121, proposing that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the insecticide MVP Bioinsecticide in or on all raw agricultural commodities (RACs) when formulated in an encapsulated system.

No comments were received in response to this notice of filing. However, comments were received when EPA published the receipt of an application for an Experimental Use Permit (EUP) for this pesticide. The comments raised a concern that EPA would register MVP under the existing 40 CFR 180.1011 tolerance exemption for *Bacillus thuringiensis*. EPA responded to the commenter that MVP was considered a new active ingredient and therefore would require a unique risk assessment and exemption from the requirement for a tolerance. This satisfied the concerns of the commenter. The temporary tolerance exemption and the experimental use permit were subsequently granted.

MVP is a killed microbial pesticide and is to be registered for the control of lepidopterous larvae, through the toxic action of the *B. t.* protein crystal. This protein toxin is selective for the larvae of lepidoptera. Such specificity is advantageous in limiting the potential effects on nontarget organisms, especially beneficial parasites and predators in other orders of insects.

The recommended application rates are as follows: 1 to 4 quarts per acre depending on the severity of the larval infestation. If the infestations are exceptionally heavy, 3 to 4 quarts per acre are recommended. The higher recommended rates should be used for aerial application. For best results, the initial spray must be made when eggs

hatch and small larvae are first observed.

#### *Residue Chemistry Data*

Residue chemistry data were not required. Such data were determined to be required only if the submitted toxicology data indicated that additional Tier II or III toxicology data are necessary as specified in 40 CFR 158.165(e). The submitted toxicology data for this use indicated that the product is of low mammalian toxicity/pathogenicity and Tier II or III data were not required. Therefore, no residue data are required in order to grant an exemption from the requirement of a tolerance for MVP.

#### *Toxicology Data*

The following data were submitted in support of the petition, and other relevant material have been evaluated. The toxicology data considered in support of this exemption from the requirements of a tolerance include the following:

1. *Acute Oral Toxicity in Rats (Technical Grade Active Ingredient [TGAII]), Guideline Nos. 81-1/152-30.* The acute oral LD<sub>50</sub> for the TGAII as indicated by the data is greater than 5050 mg/kg (4.63 mL/kg), the highest dose tested, when administered undiluted to albino rats.

2. *Acute Oral Toxicity in Rats (Flowable), Guideline Nos. 81-1/152-30.* The acute oral LD<sub>50</sub> for the typical end-use product (TEP) as indicated by the data is greater than 5050 mg/kg (4.76 mL/kg), the highest dose tested, when administered undiluted to albino rats.

3. *Acute Dermal Toxicity in Rats (Technical), Guideline Nos. 81-2/152-31.* The acute dermal LD<sub>50</sub> for the TGAII as indicated by the data is greater than 2020 mg/kg (1.85 mL/kg), the highest dose tested, when administered undiluted to albino rats.

4. *Acute Pulmonary Toxicity in Rats (Technical), Guideline Nos. 81-3/152-32.* The acute pulmonary LD<sub>50</sub> for the TGAII (technical) as indicated by the data is greater than 0.1 mL per animal, the highest dose tested, or approximately 10<sup>8</sup> nonviable cells per animal when administered to albino rats.

5. *Acute Intravenous Toxicity in Rats (Technical), Guideline Nos. 152-33.* The acute intravenous LD<sub>50</sub> for the TGAII (technical) as indicated by the data is greater than 0.05 mL per animal, the highest dose tested, or approximately 10<sup>8</sup> nonviable cells per animal when administered as a 1:100 dilution in sterile water to albino rats. While this dosage is considered low, it was demonstrated that higher dosages of the killed gram-negative bacterium elicit

shock reactions typical of reactions to the cell wall components of gram-negative bacteria in general.

6. *Primary Dermal Irritation in Rabbits (Technical), Guideline Nos. 81-5/152-34.* The TGAII produced mild to moderate dermal irritation with a primary irritation score of 1.04 when tested in albino rabbits and is not considered a primary irritant on that basis. However, there were signs of irritation at 14 days, and focal bleeding was reported on day 1. Therefore, the product is classified in Toxicity Category II.

7. *Primary Dermal Irritation in Rabbits (Flowable), Guideline Nos. 81-5/152-34.* The TEP flowable produced mild dermal irritation with a primary irritation score of 0.68 when tested in albino rabbits and is not considered a primary irritant.

8. *Eye Irritation in Rabbits (Technical), Guideline Nos. 81-4/152-35.* The TGAII technical was rated as minimally irritating in nonwashed eyes of albino rabbits when administered as 0.1 mL of a 50 percent v/v solution of the test material in sterile water. The maximum average irritation score was 3.7 and the test material was categorized in Toxicity Category III.

9. *Eye Irritation in Rabbits (Flowable), Guideline Nos. 81-4/152-35.* The TEP flowable was rated as minimally irritating in nonwashed eyes of albino rabbits when administered as 0.1 mL of undiluted test material. The maximum average irritation score was 1.3 and the test material was categorized in Toxicity Category III.

10. *Dermal Sensitization in Guinea Pigs (Flowable), Guideline Nos. 81-6/152-36.* The TEP was categorized as a mild sensitizer when administered undiluted to albino guinea pigs. Average skin reaction scores ranged from 0 to 0.6 on a scale of 0 to 4.0.

The exemption from the requirement for a tolerance on all raw agricultural commodities (RAC's) is toxicologically supported.

1. MVP Bioinsecticide is *Bacillus thuringiensis* variety *kurstaki* delta endotoxin which has been genetically engineered into *Pseudomonas fluorescens* which is subsequently rendered nonviable. This effectively creates a biologically encapsulated delta endotoxin as the active ingredient. This also renders the endotoxin less sensitive to environmental ultraviolet light inactivation.

2. This product is an aqueous flowable, based on an encapsulated system.



3. MVP Bioinsecticide will be applied on a wide variety of vegetable crops at rates varying from 1 to 4 quarts per acre.

A lack of demonstrable toxicity to MVP Bioinsecticide indicates that its use to aid in control of a wide variety of lepidopteran pests would not result in hazards to public health.

Due to the quantity of product being used and its host specificity, it is unlikely that the environment will be adversely affected. The acceptable daily intake and maximum permissible intake considerations are not relevant to this petition, because the submitted toxicology data support the exemption from a requirement for a tolerance.

The data submitted or referenced in this petition and other relevant material have been evaluated. The toxicological data considered in support of the exemption from the requirements of a tolerance did not show any deleterious effects that would indicate a cause for concern from the use of this product.

MVP Bioinsecticide is considered useful for the purpose for which the exemption from the requirements of a tolerance is sought. It is concluded that a tolerance for MVP is not necessary to protect the public health. Therefore, 40 CFR part 180 is amended as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the *Federal Register*, file written objections and/or request a hearing with the Hearing Clerk at the address given above. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested pursuant to 40 CFR 178.32, and the hearing will be granted if the Administrator determines that the material shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances

or raising tolerance levels, or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the *Federal Register* of May 4, 1981 (46 FR 24950).

#### List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests

Dated: June 17, 1991.

Douglas D. Camp, Jr.  
Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

#### PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In subpart D, by adding new § 180.1107, to read as follows:

**§ 180.1107 Delta endotoxin of *Bacillus thuringiensis* variety *kurstaki* encapsulated into killed *Pseudomonas fluorescens*; exemption from the requirement of a tolerance.**

The delta endotoxin of *Bacillus thuringiensis* variety *kurstaki* encapsulated into killed *Pseudomonas fluorescens* is exempt from the requirements of a tolerance in or on all raw agricultural commodities.

[FR Doc. 91-14823 Filed 6-19-91; 8:45 am]

BILLING CODE 6560-50-F

#### FEDERAL EMERGENCY MANAGEMENT AGENCY

##### Federal Insurance Administration

##### 44 CFR Part 67

##### Final Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are determined for the communities listed below.

The base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM)

showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

**ADDRESSES:** See table below.

**FOR FURTHER INFORMATION CONTACT:** William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2754.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the *Federal Register* for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR part 67. An opportunity for the community or individuals to appeal proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for floodplain management in flood-prone areas in accordance with 44 CFR part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been prepared. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

##### List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base (100-year) flood elevations are finalized in the communities listed



below. Elevations at selected locations in each community are shown. No appeal was made during the ninety-day period and the proposed base flood elevations have not been changed.

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
<b>ARIZONA</b>			
<b>Buckeye (town), Maricopa County (FEMA Docket No. 7006)</b>			
<i>Gila River:</i>		Approximately 0.9 mile downstream of Grand Avenue.....	*1,111
At Palo Verde Road.....	*808	Approximately 0.5 mile downstream of Grand Avenue.....	*1,118
Immediately upstream of State Highway 85-U.S. Highway 80.....	*830	Approximately 0.3 mile upstream of Grand Avenue.....	*1,131
At Miller Road.....	*840	<i>Gila River:</i>	
At Rainbow Road.....	*858	At Crest of Gillespie Dam Road.....	*762
At Airport Road.....	*871	Approximately 550 feet upstream of Agua Caliente Road.....	*775
Approximately 2,000 feet downstream of 195th Avenue.....	*880	Immediately upstream of Rose Road (extended).....	*782
At 195th Avenue.....	*882	Approximately 200 feet downstream of Johnson Road.....	*801
Approximately 3,750 feet upstream of 195th Avenue.....	*886	At Palo Verde Road.....	*808
Approximately 550 feet upstream of Perryville Road (extended).....	*888	Immediately upstream of State Highway 85-U.S. Highway 80.....	*830
<i>Hasayampa River:</i>		At Miller Road.....	*840
At intersection of Bruner Road and Narramore Road.....	*813	At Rainbow Road.....	*858
Just upstream of Old U.S. Highway 80.....	*843	At Airport Road.....	*871
Just upstream of Southern Pacific Railroad.....	*873	Approximately 2,000 feet downstream of 195th Avenue.....	*880
At Base Line Road.....	*890	Approximately 2,000 feet upstream of 195th Avenue.....	*884
Approximately 2.9 miles downstream of Interstate Highway 10.....	*960	Approximately 550 feet upstream of Perryville Road (extended).....	*888
<b>Maps are available for review at the Town Hall, 100 North Apache Road, Buckeye, Arizona.</b>		Approximately 5,600 feet upstream of Perryville Road (extended).....	*892
<b>Camp Verde (town), Yavapai County (FEMA Docket No. 7010)</b>		Approximately 300 feet upstream of Sarval Lane.....	*904
<i>West Clear Creek:</i>		<i>Salt River:</i>	
At confluence with Verde River.....	*3,017	At State Highway 87.....	*1,217
At confluence with Wickiup Creek.....	*3,080	Approximately 2 miles upstream of State Highway 87.....	*1,233
At intersection of Verde Lakes Drive and White Cap Drive.....	*3,132	At North Gilbert Road.....	*1,254
Approximately 400 feet upstream of Forest Highway 9.....	*3,201	Approximately 2 miles upstream of North Gilbert Road.....	*1,272
<b>Maps are available at Town Hall, Planning and Zoning Division, Main Street, Camp Verde, Arizona.</b>		Approximately 4 miles upstream of North Gilbert Road.....	*1,286
<b>Carefree (town), Maricopa County (FEMA Docket No. 7008)</b>		Approximately 6.5 miles upstream of North Gilbert Road.....	*1,309
<i>Galloway Wash:</i>		At Scottsdale Road.....	*1,163
Approximately 140 feet downstream of Scopa Trail.....	*2,311	Approximately 740 feet upstream of Hayden Road.....	*1,174
At Tranquil Trail.....	*2,374	Approximately 1,700 feet upstream of Hayden Road.....	*1,174
<i>Galloway Wash Middle Branch:</i>		<i>Circle City Area Wash 1:</i>	
At confluence with Galloway Wash.....	*2,395	Approximately 700 feet upstream of Black Mountain Road.....	*1,853
At Mule Train Road.....	*2,437	Approximately 1,100 feet downstream of Atchison, Topeka and Santa Fe Railway.....	*1,863
Approximately 100 feet upstream of intersection of Pima Road and Cow Trest Drive.....	*2,596	Approximately 200 feet upstream of Atchison, Topeka and Santa Fe Railway.....	*1,879
<i>Galloway Wash Lower Branch:</i>		<i>Circle City Area Wash 2:</i>	
Approximately 60 feet upstream of confluence with Galloway Wash.....	*2,396	Approximately 550 feet upstream of confluence with Circle City Area Wash.....	*1,881
Just upstream of Carefree Drive.....	*2,438	Approximately 0.5 mile upstream of confluence with Circle City Area Wash 1.....	*1,906
At Pima Road.....	*2,585	Approximately 0.6 mile upstream of confluence with Circle City Area Wash 1.....	*1,913
<b>Maps are available for review at the Town Hall, 11 Sundial Circle, Carefree, Arizona.</b>		<i>Circle City Area Wash 2 along Atchison, Topeka and Santa Fe Railway:</i>	
<b>Cave Creek (town), Maricopa County (FEMA Docket No. 7006)</b>		Approximately 350 feet upstream of confluence with Wash 2.....	*1,884
<i>Galloway Wash:</i>		Approximately 1,000 feet upstream of confluence with Wash 2.....	*1,889
Approximately 440 feet downstream of Scopa Trail.....	*2,304	<i>Circle City Area Wash 3:</i>	
Approximately 180 feet downstream of Scopa Trail.....	*2,310	Approximately 220 feet upstream of Black Mountain Road.....	*1,838
<b>Maps are available for review at the Town Hall, 37622 North Cave Creek Road, Cave Creek, Arizona.</b>		Approximately 1,500 feet upstream of Black Mountain Road.....	*1,849
<b>Goodyear (town), Maricopa County (FEMA Docket No. 7006)</b>		Approximately 350 feet upstream of confluence with Circle City Area Wash 6.....	*1,858
<i>Gila River:</i>		At confluence with Circle City Area Wash 4.....	*1,870
At 195th Avenue.....	*882	Approximately 280 feet downstream of Atchison, Topeka and Santa Fe Railway.....	*1,882
		Approximately 900 feet upstream of Atchison, Topeka and Santa Fe Railway.....	*1,895
		Approximately 2,200 feet upstream of Atchison, Topeka and Santa Fe Railway.....	*1,906
		<i>Circle City Area Wash 4:</i>	
		Approximately 250 feet upstream of confluence with Circle City Area Wash 3.....	*1,872
		Approximately 280 feet downstream of Atchison, Topeka and Santa Fe Railway.....	*1,882
		Approximately 600 feet upstream of Atchison, Topeka and Santa Fe Railway.....	*1,895
		Approximately 1,750 feet upstream of Atchison, Topeka and Santa Fe Railway.....	*1,907



Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
<b>Circle City Area Wash 4 along Atchison, Topeka, and Santa Fe Railway:</b>		Approximately 1.5 miles upstream of Pinnacle Peak Road.....	*1,314	Approximately 200 feet upstream of Atchison, Topeka and Santa Fe Railroad.....	*1,859
Approximately 320 feet upstream of confluence with Circle City Area Wash 4.....	*1,891	<b>Wittmann Wash—Upper Reach:</b>		Approximately 600 feet upstream of confluence of Monarch Wash.....	*1,926
Approximately 600 feet upstream of confluence with Circle City Area Wash 4.....	*1,895	Approximately 2,880 feet downstream of Crozier Street.....	*1,897	Approximately 1,600 feet upstream of Highways 60 and 89.....	*2,052
Approximately 900 feet upstream of confluence with Circle City Area Wash 4.....	*1,898	Approximately 1,925 feet downstream of Crozier Street.....	*1,706	At Maricopa/Yavapai county line.....	*2,103
<b>Circle City Area Wash 5:</b>		Approximately 1,000 feet downstream of Crozier Street.....	*1,717	<b>Waterman Wash:</b>	
Approximately 200 feet upstream of confluence with Circle City Area Wash 6.....	*1,881	Approximately 265 feet upstream of Crozier Street.....	*1,727	Approximately 2,000 feet downstream of Elliot Road.....	*866
Approximately 100 feet upstream of Atchison, Topeka, and Santa Fe Railway.....	*1,902	<b>Wittmann Wash—South Split:</b>		Just downstream of Tuthill Road.....	*959
Approximately 850 feet upstream of Atchison, Topeka, and Santa Fe Railway.....	*1,908	Approximately 1,100 feet downstream of Center Street.....	*1,681	Approximately 680 feet upstream of Riggs Road.....	*1,085
<b>Circle City Area Wash 6:</b>		Approximately 330 feet downstream of Center Street.....	*1,688	Approximately 200 feet upstream of 147th Avenue.....	*1,123
Approximately 150 feet upstream of confluence with Circle City Area Wash 3.....	*1,855	Approximately 645 feet upstream of Center Street.....	*1,696	At confluence with West Prong Waterman Wash.....	*1,139
Approximately 1,500 feet upstream of confluence with Circle City Area Wash 3.....	*1,867	<b>Wittmann Wash—North Split:</b>		<b>Maps are available for review at the Flood Control District of Maricopa County, 3335 West Durango Street, Phoenix, Arizona.</b>	
Approximately 110 feet upstream of confluence with Circle City Area Wash 5.....	*1,880	Approximately 1,100 feet downstream of Center Street.....	*1,681		
Approximately 400 feet upstream of Atchison, Topeka, and Santa Fe Railway.....	*1,904	Approximately 450 feet downstream of Center Street.....	*1,686	<b>Scottsdale (city), Maricopa County (FEMA Docket No. 7006)</b>	
<b>Circle City Area Wash 7:</b>		Approximately 600 feet upstream of Center Street.....	*1,696	<b>Galloway Wash Middle Branch:</b>	
At Limit of Detailed Study.....	*1,847	<b>Wittmann Wash along Atchison, Topeka, and Santa Fe Railway:</b>		Approximately 50 feet upstream of Pima Road.....	*2,596
Approximately 500 feet upstream of Limit of Detailed Study.....	*1,851	Approximately 845 feet downstream of Center Street.....	*1,683	At Cow Tract Drive.....	*2,619
Approximately 2,500 feet upstream of Limit of Detailed Study.....	*1,873	Approximately 1,570 feet upstream of Center Street.....	*1,706	<b>Galloway Wash Lower Branch:</b>	
Approximately 4,750 feet upstream of Limit of Detailed Study.....	*1,894	Approximately 2,300 feet upstream of Center Street.....	*1,708	Just upstream of Pima Road.....	*2,585
<b>Trilby Wash near Circle City:</b>		<b>Wittmann Wash Grand Avenue to CAP 1 West Overchute:</b>		Approximately 500 feet upstream of Pima Road.....	*2,598
Approximately 300 feet downstream of Black Mountain Road.....	*1,845	Approximately 250 feet upstream of overchute at CAP 1 West.....	*1,552	<b>Maps are available for review at the City Hall, 3939 Civic Center Plaza, Scottsdale, Arizona.</b>	
Approximately 75 feet downstream of Atchison, Topeka, and Santa Fe Railway.....	*1,855	Approximately 300 feet upstream of 203rd Avenue.....	*1,555		
Approximately 2,250 feet upstream of Atchison, Topeka, and Santa Fe Railway.....	*1,882	Approximately 0.5 mile upstream of 203rd Avenue.....	*1,571	<b>Wickenburg (town), Maricopa County (FEMA Docket No. 7006)</b>	
Approximately 1 mile upstream of Atchison, Topeka, and Santa Fe Railway.....	*1,923	Approximately 1 mile upstream of 203rd Avenue.....	*1,593	<b>Hassayampa River:</b>	
<b>Trilby Wash:</b>		Approximately 350 feet upstream of Dixileta Drive.....	*1,597	Approximately 500 feet upstream of Cemetery Wash.....	*2,022
Approximately 3.0 miles above McMicken Dam Outlet Works.....	*1,350	Approximately 3,200 feet upstream of Dixileta Drive.....	*1,619	Just downstream of U.S. Highway 60-89 Bridge.....	*2,045
Approximately 600 feet downstream of 203rd Avenue.....	*1,407	Approximately 700 feet upstream of Lone Mountain Road.....	*1,650	At confluence with Sols Wash.....	*2,051
Approximately 0.5 mile upstream of 203rd Avenue.....	*1,424	Approximately 500 feet downstream of Grand Avenue.....	*1,671	Approximately 2,400 feet downstream of confluence with Blue Tank Wash.....	*2,060
Approximately 300 feet downstream of 211th Avenue.....	*1,441	Approximately 680 feet upstream of Grand Avenue.....	*1,680	Approximately 4,400 feet upstream of confluence with Blue Tank Wash.....	*2,093
Approximately 500 feet upstream of Deer Valley Road.....	*1,467	<b>Cave Creek Wash:</b>		<b>Cemetery Wash:</b>	
Approximately 0.5 mile downstream of Pinnacle Peak Road (extended).....	*1,483	At confluence with Salt River.....	*1,011	Approximately 520 feet upstream of unnamed dirt road (ford) downstream crossing.....	*2,118
Approximately 2,300 feet upstream of 219th Avenue.....	*1,512	At 51st Avenue.....	*1,015	Approximately 1,750 feet upstream of unnamed dirt road (ford) upstream crossing.....	*2,163
Approximately 900 feet upstream of Happy Valley Road.....	*1,531	<b>Cemetery Wash:</b>		<b>Maps are available for review at the Town Hall, 120 East Apache Road, Wickenburg, Arizona.</b>	
Approximately 4,150 feet upstream of Happy Valley Road.....	*1,546	At confluence with Hassayampa River.....	*2,021		
<b>Wittmann Wash—West Split:</b>		At unnamed dirt road (ford) downstream crossing.....	*2,111	<b>ARKANSAS</b>	
Approximately 1,350 feet downstream of Patton Road.....	*1,550	Approximately 220 feet upstream of the upstream crossing of an unnamed dirt road (ford).....	*2,139	<b>Benton County (unincorporated areas) (FEMA Docket No. 7000)</b>	
Approximately 1,000 feet upstream of Patton Road.....	*1,559	<b>Centennial Wash:</b>		<b>Osage/Turtle Creek:</b>	
Approximately 4,100 feet upstream of Patton Road.....	*1,586	Approximately 350 feet downstream of Old U.S. Highway 80.....	*776	Approximately 1.92 miles downstream of County Route 51.....	*1,159
<b>McMicken Dam Outlet Wash:</b>		At Southern Pacific Railroad Bridge.....	*856	Approximately .87 mile downstream of Turtle Creek Road.....	*1,255
Approximately 600 feet upstream of confluence with the Agus Frig River.....	*1,181	At Ward Road.....	*962	<b>Spring Creek:</b>	
Approximately 1,000 feet downstream of Beardsley Road.....	*1,204	At Baseline Road.....	*1,058	Approximately 105 feet downstream of confluence with Puppy Creek.....	*1,164
Approximately 1,100 feet upstream of Beardsley Road.....	*1,213	At Courthouse Road.....	*1,189	Approximately 825 feet upstream of confluence of Tributary 3 to Spring Creek.....	*1,233
Approximately 0.5 mile upstream of Beardsley Road.....	*1,239	Approximately 200 feet upstream of Eagle Eye Road.....	*1,282	<b>Puppy Creek:</b>	
Approximately 1 mile upstream of Beardsley Road.....	*1,250	At Maricopa/La Paz County Line.....	*1,318	Approximately 450 feet downstream of County Route 60.....	*1,165
Approximately 1.5 miles upstream of Beardsley Road.....	*1,268	<b>Centennial Wash (Left Overbank):</b>		Approximately 634 feet upstream of County Route 240.....	*1,251
Approximately 500 feet downstream of Pinnacle Peak Road.....	*1,283	Just upstream of confluence with Centennial Wash.....	*1,067	<b>Decatur Branch:</b>	
Approximately 1,000 feet upstream of Pinnacle Peak Road.....	*1,289	At Intersection of Courthouse and Gin Roads.....	*1,138	Approximately 106 feet downstream of County Route 346.....	*1,265
Approximately 0.5 mile upstream of Pinnacle Peak Road.....	*1,298	Approximately 300 feet downstream of divergence from Centennial Wash.....	*1,202	Approximately 845 feet upstream of County Route 349.....	*1,318
Approximately 1 mile upstream of Pinnacle Peak Road.....	*1,311	<b>Hassayampa River:</b>		<b>Walt Creek:</b>	
		At confluence with Gila River.....	*802	Approximately 110 feet downstream of Kansas City Southern Railroad.....	*1,114
		Just above Old U.S. Highway 80.....	*855	Approximately 158 feet upstream of County Route 346.....	*1,205
		Just upstream of Southern Pacific Railroad.....	*873	<b>Little Sugar Creek:</b>	
		At Interstate Highway 10.....	*1,027	At downstream County boundary.....	*970
		Just upstream of Tonopah Salome Highway.....	*1,074	Approximately 530 feet upstream of State Route 94.....	*1,140
		Just upstream of CAP Siphon.....	*1,335	<b>McKisic Creek:</b>	
				Approximately 211 feet downstream of State Route 72.....	*1,162



Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Approximately .2 mile upstream of State Route 102.....	*1,241	Downstream of Oakhurst Street.....	*295	Maps available for inspection at the Faulkner County Courthouse, Conway, Arkansas.....	
<i>Tributary 1 to McKisic Creek:</i>		<i>Christian Creek Lateral:</i>			
Approximately 2.8 miles upstream of its confluence with McKisic Creek.....	*1,193	At the confluence with Christian Creek.....	*288	<b>Greenland (city), Washington County (FEMA Docket No. 7006)</b>	
Approximately 3.8 miles upstream of its confluence with McKisic Creek.....	*1,266	Approximately 317 feet downstream of Clubhouse Street.....	*294	<i>West Fork White River:</i>	
<i>Tributary 2 to Little Osage Creek:</i>		<i>Lateral No. 3:</i>		Approximately 1.2 miles downstream of U.S. Route 71.....	*1,240
Approximately 1,370 feet downstream of "I" Street SW.....	*1,270	At the confluence with Little Bay Ditch.....	*232	Approximately .02 mile upstream of old U.S. Route 71.....	*1,254
Approximately 450 feet downstream of "I" Street SW.....	*1,272	Approximately 1,500 feet upstream of Commerce Drive.....	*237	Maps available for inspection at the City Hall, 1 Ross Street, Greenland, Arkansas.....	
<i>Turtle Creek Tributary:</i>		<i>Lost Creek:</i>			
At confluence with Osage/Turtle Creek.....	*1,276	Approximately 1,056 feet downstream of U.S. Route 63.....	*283	<b>Lincoln (city), Washington County (FEMA Docket No. 7006)</b>	
Approximately 400 feet downstream of Dixie-land Road.....	*1,310	At the County road.....	*323	<i>Moores Tributary:</i>	
<i>Blossom Way Creek:</i>		<i>Moore's Ditch Lateral:</i>		Lincoln corporate limits.....	*1,425
At South 25th Street.....	*1,276	Approximately 158 feet upstream of confluence with Moore's Ditch.....	*237	Approximately 0.1 mile upstream of Lincoln corporate limits.....	*1,429
Approximately .25 mile upstream of County Route 55 (Dixie-land Road).....	*1,300	Approximately 158 feet upstream of Commerce Drive.....	*238	Maps available for inspection at the City Hall, 106 Arthur, Lincoln, Arkansas.....	
<i>Sager Creek:</i>		<i>Higginbottom Creek:</i>			
Approximately 1.18 miles downstream of Dogwood Street.....	*1,039	At the confluence with Vinay Slough Ditch.....	*247	<b>Little Flock (town), Benton County (FEMA Docket No. 6967)</b>	
Approximately 430 feet upstream of Box Springs Road.....	*1,130	At the downstream side of Parker Road.....	*282	<i>Little Sugar Creek:</i>	
<i>South Fork Prairie Creek:</i>		<i>Turtle Creek:</i>		Approximately 260 feet upstream of State Route 72.....	*1,093
Approximately 1,350 feet downstream of State Route 12.....	*1,133	At the St. Louis Southwestern Railway.....	*267	Approximately 1,850 feet downstream of State Route 94.....	*1,132
Approximately 170 feet upstream of Lake Atlanta Road.....	*1,182	Downstream side of State Route 1.....	*297	Maps available for inspection at the City Hall, Little Flock, Arkansas.....	
<i>Tributary 1 to Sager Creek:</i>		<i>Turtle Creek Lateral:</i>			
At University Street.....	*1,091	At the confluence with Turtle Creek.....	*269	<b>Mayflower (city), Faulkner County (FEMA Docket No. 7007)</b>	
Approximately 1,560 feet upstream of University Street.....	*1,109	Approximately 264 feet upstream of confluence with Turtle Creek.....	*289	<i>Arkansas River:</i>	
<i>Tributary 2 to Sager Creek:</i>		<i>Tributary to Maple Slough Ditch:</i>		Backwater approximately 400 feet north of Old Sandy Road.....	*271
At confluence with Sager Creek.....	*1,106	Approximately 53 feet downstream of Rural Road Bridge.....	*249	<i>Lake Conway:</i>	
Approximately 275 feet upstream of State Routes 59 and 68.....	*1,148	Approximately 0.4 mile upstream of County Route 74 (Stephens Avenue).....	*271	Entire shoreline within community.....	*272
<i>Tributary 3 to Sager Creek:</i>		<i>Whaley Slough Ditch:</i>		<i>Palm Creek:</i>	
At the State boundary.....	*1,040	Approximately 1,300 feet downstream of State Route 230.....	*255	At Interstate Route 40 and U.S. Route 65.....	*270
Downstream side of State Route 43.....	*1,086	Approximately 900 feet downstream of U.S. Route 63.....	*258	Just downstream of Lake Conway Dam.....	*270
<i>Tributary 3 to Spring Creek:</i>		<i>Butlers Ditch:</i>		Maps available for inspection at the City Hall, #2 Ashmore, Mayflower, Arkansas.....	
At the County boundary.....	*1,228	At the confluence with Little Bay Ditch.....	*232		
Approximately .8 mile upstream of County boundary.....	*1,271	Downstream side of County Route 64.....	*238	<b>Tontitown (city), Washington County (FEMA Docket No. 7008)</b>	
<i>Little Osage Creek:</i>		Maps available for inspection at the County Courthouse, 511 South Main Street, Room 100, Jonesboro, Arkansas.....		<i>Main Ditch:</i>	
Approximately .3 mile downstream of State Route 102.....	*1,264	<b>Faulkner County (unincorporated areas) (FEMA Docket No. 7007)</b>		Approximately 0.9 river mile above confluence with Brush Creek.....	*1,273
Approximately 700 feet downstream of State Route 102.....	*1,269	<i>Arkansas River:</i>		Approximately 1.095 river miles above confluence with Brush Creek.....	*1,282
Maps available for inspection at the Benton County Courthouse, Bentonville, Arkansas.....		At downstream County boundary with Putaski County.....	*265	Maps available for inspection at the City Hall, Tontitown, Arkansas.....	
<b>Centerton (city), Benton County (FEMA Docket No. 7000)</b>		At confluence of Cadron Creek.....	*288		
<i>McKisic Creek:</i>		<i>Palm Creek:</i>		<b>Washington County (unincorporated areas) (FEMA Docket No. 7006)</b>	
Upstream side of State Route 102.....	*1,240	At confluence with Arkansas River.....	*269	<i>West Fork White River:</i>	
At the County Route 539.....	*1,271	Just downstream of Lake Conway Dam.....	*270	Approximately 0.9 mile downstream of Harvey Owl Road.....	*1,168
<i>Little Osage Creek:</i>		<i>Lake Conway:</i>		Approximately 2.3 miles upstream of West Fork corporate limits.....	*1,360
Approximately .25 mile downstream of State Route 102.....	*1,265	Entire shoreline with community.....	*272	<i>Clabber Creek:</i>	
Downstream side of State Route 102.....	*1,275	<i>Gold Creek (South):</i>		Confluence with Hamestring Creek.....	*1,141
Maps available for inspection at the City Hall, Centerton, Arkansas.....		At confluence with Lake Conway.....	*272	Fayetteville corporate limits.....	*1,193
<b>Craighead County (unincorporated areas) (FEMA Docket No. 7007)</b>		At confluence to Gold Creek South Tributary.....	*315	<i>Hamestring Creek:</i>	
<i>Little Bay Ditch:</i>		<i>Gold Creek South Tributary:</i>		Confluence of Clabber Creek.....	*1,141
At the County Route 751.....	*224	At confluence with Gold Creek (South).....	*315	Fayetteville corporate limits.....	*1,194
At the County Route 64.....	*248	At approximately 850 feet upstream of County Route 14.....	*333	<i>Owl Creek:</i>	
<i>Whitemans Creek:</i>		<i>Gold Creek (East):</i>		Approximately 240 feet downstream of County Route 27.....	*1,178
At the confluence with Little Bay Ditch.....	*227	At confluence with Little Creek.....	*277	Approximately 0.3 mile upstream of County Route 360.....	*1,263
Approximately 100 feet downstream of Union Pacific Railroad.....	*249	At approximately 2,270 feet upstream of Wiggle Worm Road.....	*285	<i>Clear Creek:</i>	
<i>Gum Slough Ditch:</i>		<i>Little Creek:</i>		Approximately 210 feet downstream of State Route 112.....	*1,144
At the confluence with Big Bay Ditch.....	*225	At the confluence with Lake Conway.....	*272	Approximately 250 feet upstream of City of Johnson corporate limits.....	*1,171
At the County Route 61.....	*232	Approximately 130 feet upstream of the upstream crossing of State Route 286.....	*279	<i>Moores Creek:</i>	
<i>Maple Slough Ditch:</i>		<i>Tucker Creek:</i>		Approximately 475 feet downstream of State Route 620.....	*1,407
At the confluence with Gum Slough Ditch.....	*232	Approximately 2.5 miles upstream of confluence with Tupelo Bayou.....	*285	Approximately 0.29 mile upstream of U.S. Route 62.....	*1,417
Approximately 1.0 mile upstream of County Route 78.....	*239	Approximately 100 feet upstream of County Club Road (extended).....	*286	<i>Moores Tributary:</i>	
<i>Viney Slough Ditch:</i>		<i>Tucker Creek Tributary:</i>		Confluence with Moores Creek.....	*1,411
At the County Route 751.....	*227	At confluence with Tucker Creek.....	*285		
At the confluence of Higginbottom Creek.....	*247	Approximately 1,700 feet upstream of State Route 60.....	*295		
<i>Christian Creek:</i>		<i>Unnamed Tributary to Tucker Creek Tributary:</i>			
At the confluence with Lost Creek.....	*287	At State Route 60.....	*285		
		<i>Stone Dam Creek:</i>			
		At confluence with Lake Conway.....	*272		
		Downstream side of Sturges Road.....	*278		
		Greenbrier Creek: Approximately 500 feet upstream of State Route 225.....	*355		



Source of flooding and location	#Depth in feet above ground. Eleva- tion in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Eleva- tion in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Eleva- tion in feet (NGVD)
COLORADO					
Meeker (town), Rio Blanco County (FEMA Docket No. 7010)					
City of Lincoln corporate limits.....	*1,425	White River:		Approximately 700 feet downstream of Tenth Street Bridge.....	*6,201
Muddy Fork:		Just upstream of Tenth Street Bridge.....		Approximately 2,500 feet upstream of Tenth Street Bridge.....	*6,205
Approximately 285 feet downstream of County Route 98.....	*1,111	Maps are available for review at Town Hall, 236 Seventh Street, Meeker, Colorado.			
Approximately 0.32 mile upstream of U.S. Route 82.....	*1,135				
Brush Creek:		Parachute (town), Garfield County (FEMA Docket No. 7010)			
Approximately 0.5 mile downstream of Emma Road.....	*1,243	Colorado River:		Approximately 3,000 feet downstream of confluence of Parachute Creek.....	*5,047
Approximately 0.3 mile downstream of Emma Road.....	*1,250	Just upstream of County Road 300.....		Approximately 1,000 feet upstream of County Road 300.....	*5,072
Airport Branch:		Parachute Creek:		At confluence with Colorado River.....	*5,055
At confluence with West Fork White River.....	*1,219	At South Frontage Road.....		At First Street.....	*5,075
At the City of Fayetteville downstream corporate limits.....	*1,230	Approximately 2,500 feet upstream of First Street.....		Maps are available for review at Town Hall, 222 Grand Valley Way, Parachute, Colorado.	*5,096
Mud Creek:					
At a point approximately 550 feet downstream of Johnson Road.....	*1,180				
At a point approximately 800 feet downstream of Johnson Road.....	*1,180				
Tributary 4:					
Approximately 100 feet downstream of Johnson Road.....	*1,207				
Approximately 100 feet upstream of Johnson Road.....	*1,209				
Maps available for inspection at the County Courthouse, 2 South College, Fayetteville, Arkansas.					
CALIFORNIA					
Hollister (city), San Benito County (FEMA Docket No. 7006)					
San Benito River:					
Approximately 200 feet downstream of State Highway 158.....	*255				
Just upstream of State Highway 156.....	*256				
Just upstream of Nash Road.....	*281				
Approximately 4,100 feet upstream of Nash Road.....	*290				
Santa Anna Creek:					
Approximately 3,700 feet downstream of Fallon Road.....	*210				
Just downstream of Fallon Road.....	*223				
Approximately 3,300 feet upstream of Fallon Road.....	*234				
Maps are available for review at the City Planning Department, 420 Hill Street, Building A, Hollister, California.					
Merced (city), Merced County (FEMA Docket No. 7010)					
Black Rascal Creek:					
At the intersection of Snelling Highway and Santa Fe Avenue.....	*162				
Approximately 1,500 feet upstream of the confluence with Bear Creek.....	*163				
Just upstream of the Atchison, Topeka, and Santa Fe Railroad.....	*165				
At the confluence with Fahrrens Creek.....	*166				
Fahrrens Creek:					
At the confluence with Black Rascal Creek.....	*166				
Approximately 5,000 feet upstream of the confluence with Black Rascal Creek.....	*167				
Approximately 8,000 feet upstream of the confluence with Black Rascal Creek.....	*169				
At the confluence with Cottonwood Creek.....	*170				
Maps are available for review at City Hall, 678 West 18th Street, Merced, California.					
Monterey County (unincorporated areas) (FEMA Docket No. 7010)					
Reclamation Ditch (downstream of Boronda Road):					
At confluence with Tembladero Slough.....	*14				
Near intersection of Route 183 and Copper Road extended.....	*23				
At San Jon Road.....	*29				
Just upstream of a private drive approximately 6,500 feet downstream of Boronda Road.....	*32				
Just downstream of Boronda Road.....	*35				
Maps are available for review at the Monterey County Flood Control Office, 855 East Laurel Drive, Building G, Salinas, California.					
SOLANO COUNTY (unincorporated areas) (FEMA Docket No. 7010)					
Union Creek:					
Approximately 1,200 feet downstream of abandoned Union Pacific railroad.....	*72				
At Cordero Junction.....	*81				
Just upstream of Cannon Road.....	*87				
Maps are available for review at the Solano County Transportation Department, 1961 Walters Court, Fairfield, California.					
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<b>IDAHO</b>		<b>KANSAS</b>			
<b>Idaho County (unincorporated areas) (FEMA Docket No. 7010)</b>		<b>Edgerton (city), Johnson County (FEMA Docket No. 7006)</b>		About 1,600 feet upstream of Santa Fe Lake Dam	
<i>Clearwater River:</i>		<i>Martin Creek:</i>		Martin Creek:	
Approximately 3,000 feet downstream of the Union Pacific Railroad Bridge	*1,174	Just upstream of Atchison, Topoka, and Santa Fe Railway		At confluence of Santa Fe Lake Tributary	
Just downstream of the Union Pacific Railroad Bridge	*1,176	Just downstream of U.S. Highway 56		About 1,100 feet upstream of Edgerton Road	
Just upstream of U.S. Highway 12	*1,184	<i>Santa Fe Lake Tributary:</i>		Kill Creek: Within community	
Approximately 4,100 feet upstream of the confluence of Lawyer Creek	*1,194	At mouth		<i>Kansas River:</i>	
<i>Clearwater River at Kooskia:</i>		About 1600 feet upstream of Santa Fe Lake Dam		About 6.8 mile downstream of confluence of Cedar Creek	
Approximately 3,300 feet downstream of State Highway 13 Bridge	*1,237	<b>Maps available for inspection at the City Hall, 404 East Nelson, Edgerton, Kansas.</b>		About 1.1 miles upstream of confluence of Captain Creek	
Approximately 600 feet downstream of State Highway 13	*1,244	<b>Fairway (city), Johnson County (FEMA Docket No. 7006)</b>		<b>Maps available for inspection at the County Courthouse, 100 East Park, Olathe, Kansas.</b>	
<i>Lawyer Creek:</i>		<i>Rock Creek:</i>		<b>Leawood (City), Johnson County (FEMA Docket No. 7006)</b>	
Approximately 100 feet downstream of Union Pacific Railroad Bridge	*1,189	About 750 feet downstream of Mission Road		<i>James Branch:</i>	
Approximately 600 feet downstream of Hill Street	*1,230	Just downstream of U.S. Highway 56		At mouth	
Approximately 4,150 feet upstream of Hill Street	*1,284	<b>Maps available for inspection at the City Hall, 5252 Belinder Road, Fairway, Kansas.</b>		Just downstream of Sagamore Drive	
<i>South Fork Clearwater River:</i>		<b>Jefferson County (unincorporated areas) (FEMA Docket No. 7007)</b>		Just upstream of Sagamore Drive	
Just upstream of the intersection of Fourth Avenue and Main Street (State Highway 13)	*1,253	<i>Kansas River:</i>		Just downstream of Ensley Lane	
At the confluence of an unnamed tributary approximately 3,500 feet from the southern end of Kooskia Airport	*1,272	About 0.6 mile downstream of confluence of Buck Creek		Just upstream of Ensley Lane	
Approximately 200 feet upstream of Bridge Street Bridge	*1,316	At confluence of Little Muddy Creek		Just downstream of 97th Place	
Approximately 100 feet upstream of the confluence of Threemile Creek	*1,390	<i>Stone House Creek:</i>		Just upstream of 97th Place	
Approximately 1,100 feet upstream of the confluence of Sears Creek	*1,573	At mouth		<i>Dyke Branch:</i>	
<i>Middle Fork Clearwater River (At Kooskia):</i>		Just downstream of U.S. Highway 59		Just upstream of State Line Road	
Just downstream of U.S. Highway 13	*1,245	<i>Big Muddy Creek:</i>		Just downstream of Lee Boulevard	
Approximately 6,000 feet upstream of State Highway 13	*1,256	At mouth		Just upstream of Lee Boulevard	
<i>Main Threemile Creek:</i>		Just upstream of State Highway 4		About 1,050 feet upstream of Wenonga Road	
At Airport Road	*3,264	<b>Maps available for inspection at the County Courthouse, Oskaloosa, Kansas.</b>		<i>Indian Creek:</i>	
Approximately 40 feet downstream of County Road	*3,279	<b>Johnson County (unincorporated areas) (FEMA Docket No. 7006)</b>		About 1,200 feet downstream of State Line Road	
Approximately 90 feet upstream of County Road	*3,285	<i>Negro Creek Tributary: Within community</i>		Just downstream of 109th Terrace	
<i>West Fork Threemile Creek:</i>		About 4000 feet upstream of 151st Street		<i>Tomahawk Creek:</i>	
Approximately 80 feet downstream of Madison Street	*3,461	About 2500 feet upstream of U.S. Highway 69		At mouth	
Approximately 130 feet upstream of Madison Street	*3,467	<i>Wolf Creek:</i>		Just downstream of Nail Avenue	
<i>East Fork Threemile Creek:</i>		At mouth		Blue River: Within community	
Approximately 340 feet downstream of Maple Street	*3,437	About 3.0 miles upstream of Antioch Road		<i>Negro Creek:</i>	
At Maple Street	*3,446	<i>Camp Branch:</i>		Just upstream of Kenneth Road	
Approximately 1,330 feet upstream of Maple Street	*3,486	At mouth		About 1,050 feet downstream of Nail Avenue	
<i>Long Haul Creek:</i>		Just downstream of Union Pacific Railroad southernmost crossing		<i>Negro Creek Tributary:</i>	
Just upstream of County Road	*3,296	Just upstream of Union Pacific Railroad southernmost crossing		About 1.3 miles downstream of Mission Road	
Just downstream of Carnas Prairie Railroad	*3,302	About 3650 feet upstream of 199th street		About 3,000 feet upstream of Mission Road	
<b>Maps are available for review at the County Recorder's Office, County Courthouse, 321 West Main Street, Grangeville, Idaho.</b>		<i>Coffee Creek:</i>		<b>Maps available for inspection at the City Hall, 9617 Lee Boulevard, Leawood, Kansas.</b>	
<b>City of Meridian, Ada County (FEMA Docket No. 7010)</b>		At mouth		<b>Lenexa (city), Johnson County (FEMA Docket No. 7006)</b>	
<i>Fivemile Creek:</i>		About 1.5 miles upstream of Switzer Road		<i>Little Mill Creek:</i>	
At Claire Street	*2,568	<i>Mill Creek:</i>		About 3150 feet downstream of 79th Street	
At Meridian Road	*2,583	Just upstream of Holliday Drive		Just downstream of 87th Street	
Just upstream of Fairview Avenue	*2,594	About 1050 feet downstream of confluence of Mill Creek Tributary No. 2		Just upstream of 87th Street	
Just upstream of Union Pacific Railroad	*2,611	<i>Camp Creek:</i>		About 800 feet upstream of 91st Terrace	
<i>Ninemile Creek:</i>		At mouth		<i>Mill Creek:</i>	
Approximately 2,000 feet downstream of West Chateau Road	*2,553	Just downstream of 127th Street		About 1.1 miles downstream of Old 87th Street	
Just upstream of Cherry Lane	*2,568	<i>Little Cedar Creek Tributary:</i>		Just downstream of Old 87th Street	
Just upstream of Meridian Road	*2,601	At mouth		Just upstream of 87th Street Viaduct	
Just upstream of Franklin Road	*2,607	About 1500 feet upstream of mouth		Just downstream of State Highway 10	
Just upstream of Overland Road	*2,632	<i>Little Cedar Creek:</i>		<i>Mill Creek Tributary No. 1:</i>	
<i>Tennile Creek:</i>		Just upstream of 119th Street westernmost crossing		At mouth	
Just downstream of Interstate Highway 80 west-bound	*2,606	About 1.0 mile upstream of 119th Street easternmost crossing		About 600 feet upstream of Ridgeview Road	
At Meridian Road	*2,613	<i>West Branch Cedar Creek:</i>		<i>Turkey Creek:</i>	
At the City of Meridian corporate limits	*2,632	At mouth		About 700 feet upstream of Marshall Drive	
<b>Maps are available for review at City Hall, 33 East Idaho Avenue, Meridian, Idaho.</b>		About 750 feet upstream of 135th Street		About 1350 feet upstream of a service road	
		<i>Cedar Creek:</i>		<b>Maps available for inspection at the City Hall, 12350 W. 87th Street Parkway, Lenexa, Kansas.</b>	
		At mouth		<b>Merriam (city), Johnson County (FEMA Docket No. 7006)</b>	
		About 1,750 feet upstream of 135th Street		<i>Turkey Creek:</i>	
		<i>Santa Fe Lake Tributary:</i>		Just upstream of Antioch Road	
		At mouth		Just downstream of 63rd Street	
				Just upstream of 63rd Street	
				Just downstream of 75th Street	
				<i>Turkey Creek Tributary:</i>	
				At mouth	
				About 400 feet upstream of 63rd Street	
				<b>Maps available for inspection at the City Hall, 9900 West 62nd Terrace, Merriam, Kansas.</b>	
				<b>Mission (city), Johnson County (FEMA Docket No. 7006)</b>	
				<i>Rock Creek:</i>	



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Just downstream of U.S. Highway 56.....	*913	Just upstream of 107th Street.....	*885	<b>LOUISIANA</b>	
Just downstream of Woodson Avenue.....	*953	Just downstream of Interstate 435.....	*893	<b>St. Helena Parish (unincorporated areas)</b>	
Just upstream of Woodson Drive.....	*959	Just upstream of Interstate 435.....	*912	<b>(FEMA Docket No. 7010)</b>	
Just downstream of Lamar Avenue.....	*955	About 750 feet upstream of 110th Street.....	*913	<b>Amite River:</b>	
<b>Maps available for inspection at the City Hall,</b>		<b>North Branch Indian Creek:</b>		Approximately 1.6 miles downstream of confluence of Chaney Branch.....	*86
6090 Woodson, Mission, Kansas.		At mouth.....		Approximately 6.1 miles upstream of State Route 432.....	*205
<b>Mission Hills (city), Johnson County (FEMA Docket No. 7006)</b>		Just downstream of 103rd Street.....		<b>Darling Creek:</b>	
<b>Rock Creek:</b>		Tributary A:		At confluence with Amite River.....	*155
At mouth.....	*863	At mouth.....		Approximately 0.7 mile upstream of State Route 10.....	*187
About 750 feet downstream of Mission Road.....	*884	Just downstream of Interstate 435.....		<b>Sandy Run:</b>	
<b>Maps available for inspection at the Mission Hills City Hall, 8300 State Line Road, Shawnee Mission, Kansas.</b>		Just upstream of Interstate 435.....		At confluence with Darling Creek.....	*184
<b>Mission Woods (city), Johnson County (FEMA Docket No. 7006)</b>		Just downstream of 103rd Street.....		Approximately 1.5 miles upstream of State Route 173.....	*206
Brush Creek: Within community.....	*853	About 900 feet upstream of 110th Street.....		<b>Little Natalbany River:</b>	
<b>Maps available for inspection at the City Hall, 5322 Mission Woods Road, Mission Woods, Kansas.</b>		Tributary B:		Approximately 0.3 mile downstream of confluence of Tributary No. 2 of Little Natalbany River.....	*87
<b>Olathe (city), Johnson County (FEMA Docket No. 7006)</b>		At mouth.....		Approximately 1.1 miles upstream of confluence of Tributary No. 1 of Little Natalbany River.....	*100
<b>Little Cedar Creek Tributary:</b>		Just downstream of Westgate Road.....		Tributary No. 1 of Little Natalbany River:	
About 1,500 feet above mouth.....	*885	Just upstream of Westgate Road.....		At confluence with Little Natalbany River.....	*93
About 1,300 feet upstream of State Highway 7.....	*944	About 900 feet upstream of 110th Street.....		Approximately 1.1 miles upstream of confluence with Little Natalbany River.....	*98
<b>Little Cedar Creek:</b>		Indian Creek Tributary No. 3:		Tributary No. 2 of Little Natalbany River:	
At mouth.....	*839	At mouth.....		At confluence with Little Natalbany River.....	*88
Just downstream of State Highway 7.....	*982	Just downstream of 97th Street.....		Approximately 1.6 miles upstream of confluence with Little Natalbany River.....	*99
Just upstream of State Highway 7.....	*1,001	Just upstream of 97th Street.....		<b>Ticklaw River:</b>	
About 800 feet upstream of Dennis Avenue.....	*1,025	About 900 feet upstream of 95th Street.....		Approximately 1.8 miles downstream of State Route 18.....	*110
<b>Cedar Creek:</b>		Indian Creek Tributary No. 4:		Approximately 2.3 miles upstream of confluence of Tributary of Ticklaw River.....	*119
About 3,000 feet downstream of State Highway 10.....	*790	At mouth.....		Tributary of Ticklaw River:	
Just downstream of Olathe Lake Dam.....	*886	About 350 feet upstream of Hadley Drive.....		At confluence with Ticklaw River.....	*113
<b>Indian Creek:</b>		Indian Creek Tributary No. 5:		Approximately 2.4 miles upstream of confluence with Ticklaw River.....	*127
Just upstream of Plumm Road.....	*947	At mouth.....		<b>Twelvemile Creek:</b>	
About 0.9 mile upstream of 151st Street.....	*1,043	About 1250 feet upstream of 99th Street.....		At confluence with Ticklaw River.....	*111
<b>Mill Creek Tributary No. 1:</b>		Tomahawk Creek:		Approximately 0.7 mile upstream of confluence with Red Hill Branch.....	*120
About 600 feet downstream of State Highway 10.....	*899	About 1850 feet upstream of 119th Street.....		<b>Maps available for inspection at the Court-house, Greensburg, Louisiana.</b>	
Just downstream of State Highway 10.....	*905	Just downstream of Plumm Road.....		<b>Tangipahoa Parish (unincorporated areas)</b>	
Just upstream of State Highway 10.....	*918	Negro Creek:		<b>(FEMA Docket No. 7007)</b>	
About 3,500 feet upstream of State Highway 10.....	*928	At mouth.....		<b>Chappeeela Creek:</b>	
<b>Mill Creek:</b>		Just upstream of U.S. Highway 68.....		Approximately .6 mile upstream of confluence with Tangipahoa River.....	*41
Just upstream of State Highway 10.....	*895	Indian Creek:		Approximately 1.1 miles upstream of Zemurray Lodge Road.....	*69
Just upstream of Keeler Street.....	*1,032	Just upstream of 109th Terrace.....		<b>Bedco Creek:</b>	
<b>Mill Creek Tributary No. 2:</b>		Just downstream of Plumm Road.....		Approximately 5.2 miles upstream of confluence with Tangipahoa River.....	*9
At mouth.....	*952	Camp Branch: Within community.....		Approximately 0.7 mile upstream of U.S. Route 190.....	*39
Just downstream of Nelson Street.....	*1,002	<b>Blue River:</b>		<b>Washley Creek:</b>	
<b>Cedar Creek Tributary:</b>		About 3500 feet downstream of confluence of Negro Creek.....		At confluence with Tangipahoa River.....	*28
At mouth.....	*807	About 0.81 mile upstream of confluence of Camp Branch.....		Approximately 2.0 miles upstream of U.S. Route 190.....	*37
About 2,800 feet upstream of easternmost 103rd Street.....	*918	<b>Maps available for inspection at the City Hall, 8500 Sante Fe Drive, Overland Park, Kansas.</b>		<b>Yellow Water River:</b>	
<b>Indian Creek Tributary No. 6:</b>		<b>Prairie Village (city), Johnson County (FEMA Docket No. 7006)</b>		Approximately .7 mile upstream of confluence with Ponchatoula Creek.....	*8
At mouth.....	*996	<b>Dyke Branch:</b>		Upstream side of Parish Road 134.....	*58
Just upstream of 143rd Street.....	*1,017	About 1050 feet upstream of Wenonga Road.....		<b>Little Chappapeela Creek:</b>	
<b>West Branch Cedar Creek:</b>		About 1400 feet upstream of Wenonga Road.....		Approximately 1.1 miles upstream of Zemurray Lodge Road.....	*69
About 750 feet upstream of 143rd Street.....	*978	<b>Maps available for inspection at the City Hall, 7700 Mission Road, Prairie Village, Kansas.</b>		At upstream side of Terrace Road.....	*112
About 1.0 mile upstream of 143rd Street.....	*1,003	<b>Shawnee (city), Johnson County (FEMA Docket No. 7006)</b>		<b>Maps available for inspection at the Courthouse Building, Amite, Louisiana.</b>	
<b>Maps available for inspection at the Engineering Department, City Hall, 217 West Park, Olathe, Kansas.</b>		<b>Mill Creek:</b>		<b>MAINE</b>	
<b>Overland Park (city), Johnson County (FEMA Docket No. 7006)</b>		At mouth.....		<b>Norway (town), Oxford County (FEMA Docket No. 7007)</b>	
<b>Turkey Creek:</b>		About 1.1 miles downstream of Old 87th Street.....		<b>Pennesseewassee Stream:</b>	
Just downstream of Southbound U.S. Highway 89.....	*864	Little Hill Creek:		At confluence with Little Androscoggin River.....	*327
Just upstream of Burlington Northern Railroad.....	*964	At mouth.....		Approximately 600 feet upstream of Highland Avenue Bridge.....	*390
Just downstream of Marshall Drive.....	*976	Just downstream of Lackman Road.....		<b>Bird Brook:</b>	
<b>James Branch:</b>		Just upstream of Lackman Road.....		At confluence with Pennesseewassee Stream.....	*375
Just upstream of 97th Place.....	*895	About 3,150 feet downstream of 79th Street.....		Approximately 75 feet upstream of Elm Hill Road Bridge.....	*382
About 350 feet upstream of 97th Place.....	*898	<b>Turkey Creek Tributary:</b>			
<b>Indian Creek Tributary No. 1:</b>		About 400 feet upstream of 63rd Street.....			
At mouth.....	*858	Just downstream of Flint Avenue.....			
Just downstream of 103rd Street.....	*858	<b>Kansas River:</b>			
Just upstream of 103rd Street.....	*864	About 3,200 feet downstream of confluence of Hill Creek.....			
Just downstream of 99th Street.....	*890	About 3,900 feet upstream of confluence of Cedar Creek.....			
<b>Indian Creek Tributary No. 2:</b>		<b>Turkey Creek:</b>			
At mouth.....	*868	Just downstream of Marshall Drive.....			
Just downstream of 107th Street.....	*880	About 700 feet upstream of Marshall Drive.....			



Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
<b>Little Androscoggin River:</b>		<b>Hibbing (city), St. Louis County (FEMA Docket No. 7010)</b>		<b>Stream 15:</b>	
At downstream corporate limits.....	*326	<b>Barber Creek:</b>		Approximately 0.2 mile upstream of Picacho Drain.....	*3,902
At upstream corporate limits.....	*329	About 3900 feet upstream of mouth.....	*1,304	Approximately 1.0 mile upstream of Picacho Drain.....	*4,068
<b>Maps available for inspection at the Town Clerk's Vault, Town Office, 26 Danforth Street, Norway, Maine.</b>		About 1700 feet upstream of Dixon Road.....	*1,344	<b>Stream 16:</b>	
<b>Paris (town), Oxford County (FEMA Docket No. 7010)</b>		<b>Penobscot Creek:</b>		Approximately 0.5 mile upstream of Picacho Drain.....	*3,935
<b>Little Androscoggin River:</b>		At mouth.....	*1,329	Approximately 1.0 mile upstream of Picacho Drain.....	*4,067
Approximately 600 feet upstream of State Route 26 in Oxford, Maine.....	*324	Just downstream of Tamminen Road.....	*1,383	<b>Stream 17:</b>	
Approximately 100 feet upstream of upstream corporate limits.....	*389	<b>Maps available for inspection at the Zoning Department, City Hall, Hibbing, Minnesota.</b>		Approximately 0.6 mile upstream of Picacho Drain.....	*3,955
<b>Stony Brook:</b>		<b>Ranier (city), Koochiching County (FEMA Docket No. 7010)</b>		Approximately 1.0 mile upstream of Picacho Drain.....	*4,075
At confluence with Little Androscoggin River.....	*350	<b>Rainy Lake:</b>		<b>Stream 21:</b>	
Approximately 0.5 mile upstream of Brett Hill Road.....	*429	Along shoreline.....	*1,113	Approximately 0.5 mile upstream of Picacho Drain.....	*3,952
<b>Maps available for inspection at the Town Clerk's Vault, Town Office, Paris, Maine.</b>		<b>Maps available for inspection at the City Clerk's Office, City Hall, Ranier, Minnesota.</b>		Approximately 0.85 mile upstream of Picacho Drain.....	*4,061
<b>MICHIGAN</b>		<b>MISSISSIPPI</b>		<b>Stream 22:</b>	
<b>Hersey (village), Osceola County (FEMA Docket No. 7007)</b>		<b>Itawamba County (unincorporated areas) (FEMA Docket No. 7007)</b>		Approximately 0.5 mile upstream of Picacho Drain.....	*3,941
<b>Muskegon River:</b>		<b>Tombigbee River:</b>		Approximately 0.65 mile upstream of Picacho Drain.....	*3,997
About 1,500 feet downstream of Fourth Street.....	*959	About 2500 feet downstream of Barrs Ferry Road.....	*242	<b>Stream 23:</b>	
About 1,800 feet upstream of Fourth Street.....	*962	Just downstream of Walker Road.....	*300	Approximately 0.5 mile upstream of Picacho Drain.....	*3,993
<b>Hersey River:</b>		<b>Tennessee-Tombigbee Waterway:</b>		Approximately 0.7 mile upstream of Picacho Drain.....	*4,036
At mouth.....	*961	At southern county boundary.....	*249	<b>Stream 24:</b>	
Just downstream of Hersey Dam.....	*973	Just downstream of Lock C.....	*253	Approximately 0.85 mile upstream of Picacho Drain.....	*3,952
Just upstream of Hersey Dam.....	*978	Just upstream of Lock C.....	*270	Approximately 1.9 miles upstream of Picacho Drain.....	*4,063
About 2,500 feet upstream of Hersey Dam.....	*978	Just downstream of Lock D.....	*271	<b>Shallow Flooding</b>	
<b>Maps available for inspection at the Village Hall, 306 East Third Street, Hersey, Michigan.</b>		Just upstream of Lock D.....	*300	<b>Stream Bilbo:</b>	
<b>James (township), Saginaw County (FEMA Docket No. 7007)</b>		Just downstream of Lock E.....	*300	At cross section A.....	#1
<b>Shiawassee River:</b> Within community	*594	About 4300 feet upstream of Lock E.....	*330	At corporate limits.....	#1
<b>Tittabawassee River:</b>		<b>Maps available for inspection at the Chancery Clerk's Office, County Courthouse, 201 West Main Street, Fulton, Mississippi.</b>		<b>Stream 13:</b>	
Just upstream of Center Road.....	*595	<b>NEW MEXICO</b>		At corporate limits.....	#1
About 0.84 mile upstream of Conrail.....	*598	<b>Dona Ana County (unincorporated areas) (FEMA Docket No. 7010)</b>		At cross section A.....	#2
<b>Maps available for inspection at the Township Hall, 6060 Swan Creek Road, James, Michigan.</b>		<b>Sand Hill Arroyo (Flow Path 1):</b>		<b>Stream 14:</b>	
<b>Lincoln (township), Newaygo County (FEMA Docket No. 7007)</b>		Approximately .4 mile downstream of Elks Drive.....	*3,959	At corporate limits.....	#1
<b>White River:</b>		Approximately 1,500 feet downstream of Elks Drive.....	*3,973	At cross section A.....	#2
About 2.0 miles downstream of State Highway 20.....	*762	<b>Flow Path 4:</b> At Dona Ana Road approximately 0.40 mile downstream of Alameda Boulevard.....	*3,906	<b>Stream 15:</b>	
About 2.7 miles upstream of Baldwin Avenue.....	*784	<b>Flow Path 6:</b>		At a point approximately 1,000 feet downstream of cross section A.....	#1
<b>Maps available for inspection at the Township Hall, Wisner Road, White Cloud, Michigan.</b>		At Las Cruces corporate limits.....	*3,877	At cross section A.....	#2
<b>Port Huron (township), St. Clair County (FEMA Docket No. 7007)</b>		Approximately 100 feet downstream of Union Avenue.....	*3,880	<b>Stream 16:</b>	
<b>Black River:</b>		<b>Flow Path 10:</b>		At cross section A.....	#1
About 2,150 feet downstream of Interstate 94.....	*586	Approximately 450 feet upstream of Interstate Route 25.....	*4,014	At Picacho Drain.....	#1
About 6.6 miles upstream of Interstate 94.....	*595	Approximately 650 feet upstream of Interstate Route 25.....	*4,017	<b>Stream 17:</b> Area from cross section A to Picacho Drain.....	#1
<b>Maps available for inspection at the Township Hall, 3800 Lapeer Road, Port Huron, Michigan.</b>		<b>Flow Path 11:</b>		<b>Stream 21:</b> At cross section A.....	#1
<b>MINNESOTA</b>		At Las Cruces Lateral.....	*3,882	<b>Stream 22:</b> Area from cross section A to Picacho Drain.....	#1
<b>Cloquet (city), Carlton County (FEMA Docket No. 7010)</b>		Approximately 1,450 feet downstream of Interstate Route 10.....	*3,896	<b>Stream 23:</b> Area from cross section A to Picacho Drain.....	#1
<b>St. Louis River:</b>		<b>Flow Path 12:</b>		<b>Stream 24:</b>	
Just upstream of Knife Falls Dam.....	*1,181	Approximately 720 feet downstream of Stern Drive.....	*3,934	At Picacho Drain.....	#2
About 3.2 miles upstream of State Route 33.....	*1,188	Approximately 1,680 feet upstream of Las Alturas.....	*3,963	At cross section A.....	#3
<b>North Channel:</b>		<b>Stream Bilbo:</b>		<b>Maps available for inspection at the County Courthouse, 180 West Amador, Las Cruces, New Mexico.</b>	
Just upstream of Knife Falls Dam.....	*1,181	Approximately 0.75 mile upstream of Picacho Drain.....	*3,987	<b>Mesilla (town), Dona Ana County (FEMA Docket No. 7010)</b>	
About 3700 feet upstream of Knife Falls Dam.....	*1,182	Approximately 1.2 miles upstream of Picacho Drain.....	*4,123	<b>Stream Bilbo:</b> Shallow flooding (Alluvial fan) from Picacho Drain to the corporate limits.....	#1
<b>South Channel:</b>		<b>Stream 13:</b>		<b>Stream 13:</b> At the corporate limits.....	#1
Just upstream of Duluth and Northeastern Railroad.....	*1,182	Approximately 0.6 mile upstream of Picacho Drain.....	*3,954	<b>Stream 14:</b> Shallow flooding (Alluvial fan) from Picacho Drain to the corporate limits.....	#1
About 1500 feet upstream of Main Street.....	*1,184	Approximately 1.25 miles upstream of Picacho Drain.....	*4,098	<b>Stream 15:</b>	
<b>Maps available for inspection at the Planning Department, City Hall, 1307 Cloquet Avenue, Cloquet, Minnesota.</b>		<b>Stream 14:</b>		At Picacho Drain.....	#1
		Approximately 0.45 mile upstream of Picacho Drain.....	*3,989	Shallow flooding (Alluvial fan) at a point approximately 200 feet downstream of cross section A.....	#2
		Approximately 1.2 miles upstream of Picacho Drain.....	*4,138	<b>Stream 21:</b> At the corporate limits.....	#1



Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
<b>NEW YORK</b>		<b>Pickaway County (unincorporated areas) (FEMA Docket No. 7010)</b>		<b>Bryan County (unincorporated areas) (FEMA Docket No. 7000)</b>	
<b>Coming (town), Steuben County (FEMA Docket No. 7010)</b>		<b>Scioto River:</b>		<b>Mineral Bayou:</b>	
At downstream corporate limits	*976	Just upstream of county boundary	*652	Approximately 0.58 mile downstream of the confluence of Mineral Bayou Tributary 0	*576
Approximately 110 feet upstream of Private Road	*1,185	About 2,000 feet upstream of confluence of Big Walnut Creek	*694	Approximately 0.98 mile upstream of the confluence of Mineral Bayou Tributary 6	*669
<b>Cutler Creek:</b>		<b>Walnut Creek:</b>		<b>Mineral Bayou Tributary 0:</b>	
At State Route 41	*985	At mouth	*679	At its confluence with Mineral Bayou	*579
Approximately 0.2 mile upstream of Coming-Horriby Road	*1,088	Just downstream of Lockbourne Road	*694	At State Routes 48 and 78	*631
<b>Winfield Creek:</b>		<b>Big Darby Creek:</b>		<b>Mineral Bayou Tributary 1:</b>	
Approximately 580 feet downstream of Hickory Lane	*926	At mouth	*671	At confluence with Mineral Bayou	*598
Approximately 0.8 mile upstream of Hickock Golf Road	*1,208	Just downstream of State Route 316	*731	Approximately 200 feet upstream of North First Avenue	*618
<b>Chemung River:</b>		<b>Maps available for inspection at the County Courthouse, 23 S. Main Street, Circleville, Ohio.</b>		<b>Mineral Bayou Tributary 4:</b>	
At the downstream corporate limits	*897			At confluence with Mineral Bayou	*640
Approximately 1.2 miles upstream of downstream corporate limits	*907	<b>Union County (unincorporated areas) (FEMA Docket No. 7010)</b>		Approximately 810 feet upstream of U.S. Routes 69 and 75	*658
<b>Maps available for inspection at the Corning Town Hall, 20 South Maple Street, Corning, New York.</b>		<b>Mill Creek:</b>		<b>Mineral Bayou Tributary 5:</b>	
		About 700 feet downstream of Thompson Road	*919	At confluence with Mineral Bayou	*622
<b>Flower Hill (village), Nassau County (FEMA Docket No. 7007)</b>		About 2.20 miles upstream of U.S. Route 33	*994	At U.S. Routes 69 and 75	*671
<b>Hempstead Harbor:</b>		<b>Big Darby Creek:</b>		<b>Mineral Bayou Tributary 5 South Branch:</b>	
Approximately 200 feet east of West Shore Road	*15	About 0.45 mile downstream of U.S. Route 38	*979	At confluence with Mineral Bayou Tributary 5	*621
Southern corporate limits	*17	About 1.42 miles upstream of North Lewisburg Road	*1050	Approximately 90 feet downstream of Missouri-Kansas-Texas Railroad	*639
<b>Maps available for inspection at the Village Hall, Manhasset, New York.</b>		<b>Sugar Run:</b>		<b>Mineral Bayou Tributary 6:</b>	
		About 1.70 miles downstream of Converse Road	*920	At the confluence with Mineral Bayou	*654
<b>Woodstock (town), Ulster County (FEMA Docket No. 7007)</b>		Just downstream of Taylor Road	*954	At Sunnyside Drive	*668
<b>Saw Kill:</b>		<b>Fulton Creek:</b>		<b>Chuckwa Creek:</b>	
At downstream corporate limits	*263	About 2.6 miles downstream of State Route 4	*923	At the confluence with Mineral Bayou	*596
Approximately 110 feet upstream of MacDaniel Road	*957	Just downstream of State Route 739	*1,030	Approximately 1,900 feet upstream of confluence of Chuckwa Creek Tributary 4	*680
<b>Beaver Kill:</b>		<b>Eliot Run:</b>		<b>Chuckwa Creek Tributary 2:</b>	
At downstream corporate limits	*763	At mouth	*834	At confluence with Chuckwa Creek	*625
Approximately 0.5 mile upstream of Sickler Road	*1,084	Just downstream of Kinney Pike	*845	Approximately 1,125 feet upstream of the confluence of Chuckwa Creek Tributary 2 South Branch	*697
<b>East Branch Tannery Brook:</b>		<b>Ash Run:</b>		<b>Chuckwa Creek Tributary 2 South Branch:</b>	
At the confluence with West Branch Tannery Brook	*586	At mouth	*941	At confluence with Chuckwa Creek Tributary 2	*691
Approximately 140 feet upstream of State Route 212 (Glasco Turnpike)	*717	Just downstream of Race Road	*943	Approximately 1,500 feet upstream of confluence with Chuckwa Creek Tributary 2	*697
<b>West Branch Tannery Brook:</b>		<b>Big Run:</b>		<b>Chuckwa Creek Tributary 3:</b>	
At the confluence with Saw Kill	*520	At mouth	*977	At confluence with Chuckwa Creek	*862
Approximately 120 feet upstream of State Route 212 (Glasco Turnpike)	*881	Just downstream of Boundary Road	*980	Approximately 1.0 mile upstream of confluence with Chuckwa Creek	*712
<b>Maps available for inspection at the Town Hall, 81 Tinker Street, Woodstock, New York.</b>		<b>Maps available for inspection at the County Courthouse, Marysville, Ohio.</b>		<b>Chuckwa Creek Tributary 4:</b>	
				At confluence with Chuckwa Creek	*671
<b>OHIO</b>		<b>OKLAHOMA</b>		At Wilson Road	*672
<b>Perry County (unincorporated areas) (FEMA Docket No. 7010)</b>		<b>Apache (city), Caddo County (FEMA Docket No. 7010)</b>		<b>Maps available for inspection at the County Courthouse, 402 Evergreen, Durant, Oklahoma.</b>	
<b>Center Branch:</b>		<b>Box Elder Creek:</b>		<b>Caddo County (unincorporated areas) (FEMA Docket No. 7010)</b>	
At mouth	*813	Approximately 1,000 feet downstream of State Route 19	*1,258	<b>Deer Creek:</b>	
Just downstream of State Route 668	*846	Approximately 400 feet upstream of State Route 19	*1,260	Approximately 1,000 feet downstream of confluence of Deer Creek East Tributary	*1,478
<b>Tributary F:</b>		<b>Maps available for inspection at the City Hall, Apache, Oklahoma.</b>		Approximately 1,100 feet upstream of confluence of Deer Creek West Tributary	*1,488
At mouth	*820			<b>Deer Creek West Tributary:</b>	
Just downstream of County Route 94B	*846			At the confluence with Deer Creek	*1,487
<b>Rush Creek:</b>		<b>Binger (town), Caddo County (FEMA Docket No. 7010)</b>		Approximately .5 mile upstream of confluence with Deer Creek	*1,498
At county boundary	*807	<b>Sugar Creek:</b>		<b>Deer Creek East Tributary:</b>	
Just downstream of Township Road 364	*873	Approximately 800 feet downstream of US Route 281	*1,293	At the confluence with Deer Creek	*1,477
<b>Tributary T:</b>		Approximately 175 feet upstream of upstream Town of Binger corporate limits	*1,305	Approximately 1.1 miles upstream of confluence with Deer Creek	*1,537
At mouth	*830	<b>Maps available for inspection at the Town Hall, 303 W. Main, Binger, Oklahoma.</b>		<b>Sugar Creek:</b>	
Just downstream of Township Road 131	*848			Approximately 8 miles upstream of the confluence with Washita River	*1,212
<b>Tributary G:</b>		<b>Breckenridge (town), Garfield County (FEMA Docket No. 7010)</b>		Approximately .8 mile upstream of Washita Avenue	*1,353
At mouth	*849	<b>Unnamed Tributary of Red Rock Creek:</b>		<b>Box Elder Creek West Tributary:</b>	
Just downstream of Mainesville Road	*863	At the downstream corporate limits	*1,089	At confluence with Box Elder Creek	*1,264
<b>Moxahale Creek:</b>		At the upstream corporate limits	*1,091	Approximately 3,100 feet upstream of confluence with Box Elder Creek	*1,274
Just upstream of Conrail	*738	<b>Red Rock Creek:</b>		<b>Box Elder Creek:</b>	
About 0.8 mile upstream of Watenworks Road	*755	Approximately .40 mile downstream of the confluence of Unnamed Tributary of Red Rock Creek	*1,084	At State Route 19	*1,257
<b>Maps available for inspection at the County Courthouse, 121 W. Brown, New Lexington, Ohio.</b>		Approximately 50 feet downstream of the confluence of Unnamed Tributary of Red Rock Creek	*1,089	Approximately 1.1 miles upstream of State Route 19	*1,272
		<b>Tributary 3 Reach 2:</b>		<b>Tonkawa Creek:</b>	
		At 78th Street	*1,197	Approximately 100 feet downstream of Petree Road	*1,168
		<b>Maps available for inspection at the Town Hall, Route 6 Enid, Oklahoma.</b>		Approximately .4 mile downstream of Section Line Road	*1,194



Source of flooding and location	#Depth in feet above ground. Eleva- tion in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Eleva- tion in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Eleva- tion in feet (NGVD)
<b>Maps available for inspection at the Caddo County Courthouse, Anadarko, Oklahoma.</b>		<b>Garfield County (unincorporated areas) (FEMA Docket No. 7010)</b>		At upstream side of State Route 37 .....	*1,241
<b>Devol (town), Cotton County (FEMA Docket No. 7010)</b>		<i>Green Valley Creek:</i>		Approximately 1.2 miles upstream of County Road.....	*1,292
<i>Red River Tributary 1:</i>		Approximately 1.3 miles downstream of N Street.....	*1,207	<i>Coal Creek Tributary:</i>	
Approximately 1,300 feet downstream of U.S. Route 70 and State Route 36 .....	*1,019	Approximately 700 feet upstream of N Street .....	*1,239	At upstream side of State Route 37 .....	*1,234
Approximately 3,000 feet upstream of U.S. Route 70 and State Route 36 .....	*1,032	<i>Clear Creek-Sand Creek:</i>		Approximately 1.3 miles upstream of Dove Creek Road .....	*1,332
<b>Maps available for inspection at the Town Hall, Devol, Oklahoma.</b>		Approximately 3.4 miles upstream of confluence with Turkey Creek.....	*1,217	<b>Maps available for inspection at the Grady County Courthouse, Chickasha, Oklahoma.</b>	
<b>Enid (city), Garfield County (FEMA Docket No. 7010)</b>		Approximately 1.1 miles upstream of West Chestnut Avenue .....	*1,265	<b>Hydro (town), Caddo County (FEMA Docket No. 7010)</b>	
<i>Tributary 1:</i>		<i>Levengood Creek:</i>		<i>Deer Creek:</i>	
At confluence with Tributary 3 .....	*1,145	Approximately .5 mile upstream of confluence with Dinker Creek.....	*1,109	Approximately 250 feet downstream of State Route 58.....	*1,482
At upstream side of Willow Road .....	*1,197	Approximately 2.2 miles upstream of confluence with Dinker Creek.....	*1,136	Approximately 650 feet downstream of confluence of Deer Creek West Tributary.....	*1,486
<i>Tributary 2:</i>		<i>Tributary 3 Reach 2:</i>		<i>Deer Creek East Tributary:</i>	
At confluence with Tributary 3 .....	*1,150	Approximately 200 feet upstream of 78th Street ..	*1,198	Approximately 400 feet upstream of North Central Oklahoma Railway.....	*1,486
At upstream side of Purdue Avenue .....	*1,208	<i>Dinker Creek:</i>		Approximately 1,150 feet upstream of North Central Oklahoma Railway .....	*1,494
<i>Tributary 3:</i>		Approximately 1.7 miles upstream of divergence of Dinker Overflow Tributary .....	*1,175	<b>Maps available for inspection at the Town Hall, 505 W. Fifth Street, Hydro, Oklahoma</b>	
Approximately 1,350 feet upstream of confluence with Skeleton Creek.....	*1,140	<i>Dinker Overflow Tributary:</i>		<b>Kingfisher County (unincorporated areas) (FEMA Docket No. 7006)</b>	
Approximately 1.1 miles upstream of Willow Road.....	*1,211	Confluence with Dinker Creek.....	*1,111	<i>Kingfisher Creek (Lower Reach):</i>	
<i>Tributary 3, Reach 2:</i>		Divergence from Dinker Creek .....	*1,131	Approximately 0.9 mile downstream of U.S. Route 81 (Main Street).....	*1,040
At confluence with Tributary 3 .....	*1,187	<i>Unnamed Tributary of Dinker Creek:</i>		Approximately 1.55 miles upstream of State Routes 3 and 33 .....	*1,079
At downstream side of 78 Street.....	*1,196	Confluence with Dinker Creek.....	*1,130	<i>Kingfisher Creek (Upper Reach):</i>	
<i>Tributary 4:</i>		Approximately 1,500 feet above confluence with Dinker Creek .....	*1,137	Approximately 1.4 miles downstream of Unnamed Road.....	*1,148
At confluence with Skeleton Creek .....	*1,141	<i>Red Rock Creek:</i>		Approximately 0.8 mile upstream of Unnamed Road .....	*1,163
At Atchison Topeka & Santa Fe Railway .....	*1,205	Approximately .4 mile downstream of confluence of Unnamed Tributary of Red Rock Creek.....	*1,084	<i>Kingfisher Creek Tributary A:</i>	
<i>Boggy Creek Tributary:</i> At confluence with Boggy Creek.....	*1,275	Approximately 1.26 miles upstream of confluence of Unnamed Tributary of Red Rock Creek .....	*1,100	At confluence with Kingfisher Creek .....	*1,054
<i>Sand Creek:</i>		Approximately 1,000 feet downstream of Burlington Northern Railroad.....	*1,175	At Will Rogers Drive .....	*1,073
Approximately .54 mile upstream of U.S. Route 60.....	*1,143	Approximately 1 mile upstream of confluence of Lahoma Tributary .....	*1,230	<i>Dead Indian Creek:</i>	
At West Chestnut Avenue.....	*1,152	<i>Unnamed Tributary of Turkey Creek near Fish Hatchery:</i>		At confluence with Kingfisher Creek .....	*1,057
<b>Maps available for inspection at the City Hall, Enid, Oklahoma</b>		At U.S. Route 60 .....	*1,185	At Will Rogers Drive .....	*1,063
<b>Fairmont (town), Garfield County (FEMA Docket No. 7010)</b>		<i>Lahoma Tributary:</i>		<i>Kingfisher Creek Tributary B:</i>	
<i>Pleasantdale Creek:</i>		At confluence with Turkey Creek .....	*1,227	At confluence with Kingfisher Creek .....	*1,066
At the confluence with Bethany Creek .....	*1,113	At Missouri-Kansas-Texas Railroad .....	*1,255	Approximately 1.3 miles upstream of confluence with Kingfisher Creek.....	*1,075
Approximately .74 mile upstream of the confluence with Bethany Creek .....	*1,132	<i>Unnamed Tributary of Lahoma Tributary:</i>		<i>Cooper Creek:</i>	
<i>North Creek:</i>		At confluence with Lahoma Tributary.....	*1,234	Approximately 1.18 miles downstream of 1st Street.....	*1,107
At confluence with Bethany Creek .....	*1,130	At Missouri-Kansas-Texas Railroad .....	*1,254	Approximately 1.22 miles upstream of 1st Street ..	*1,122
At Rupe Avenue.....	*1,142	<b>Maps available for inspection at County Courthouse, Enid, Oklahoma.</b>		<i>Cimarron River:</i>	
<i>Bethany Creek:</i>		<b>Gracemont (town), Caddo County (FEMA Docket No. 7010)</b>		Approximately 1.7 miles upstream of confluence of Turkey Creek at low flow.....	*1,037
Approximately 1,000 feet downstream of the confluence of Pleasantdale Creek .....	*1,111	<i>Sugar Creek:</i>		Approximately 1,750 feet downstream of U.S. Route 81 .....	*1,024
Approximately 1.62 miles upstream of the confluence of Pleasantdale Creek .....	*1,137	Approximately .4 mile downstream of Unnamed Road .....	*1,215	<i>Turkey Creek (Main Channel):</i>	
<i>Levengood Creek:</i>		At the Unnamed Road .....	*1,218	At confluence with Cimarron River at high flow (approximately 1.6 miles downstream of Boundary Street).....	*1,034
At downstream corporate limits .....	*1,113	<b>Maps available for inspection at the Town Hall, Gracemont, Oklahoma.</b>		Approximately 0.7 mile upstream of Boundary Street.....	*1,041
Approximately 100 feet upstream of upstream corporate limits .....	*1,130	<b>Grady County (unincorporated areas) (FEMA Docket No. 7010)</b>		<i>Turkey Creek—West Overflow (west of railroad tracks):</i>	
<i>Dinker Creek:</i>		<i>Bridge Creek:</i>		Approximately 1.3 miles downstream of U.S. Route 81 .....	*1,024
Approximately 350 feet upstream of the confluence of Dinker Overflow Tributary.....	*1,113	Approximately 500 feet downstream of County boundary .....	*1,199	Approximately .5 mile upstream of Red Fork Drive.....	*1,041
Approximately 1.53 miles upstream of the divergence of Dinker Overflow Tributary .....	*1,170	Approximately 0.8 mile upstream of County Road (5th crossing).....	*1,254	<i>Turkey Creek—East Overflow (east of railroad tracks):</i>	
<i>Unnamed Tributary of Dinker Creek:</i>		<i>Worley Creek:</i>		Approximately 1.7 miles downstream of corporate limits .....	*1,024
At the downstream corporate limits.....	*1,135	At upstream side of State Route 37 .....	*1,243	At corporate limits .....	*1,032
Approximately .52 mile upstream of the confluence with Dinker Creek .....	*1,143	Approximately 2.1 miles upstream of County Road .....	*1,277	<i>Uncle John's Creek:</i>	
<i>Skeleton Creek:</i>		<i>Worley Creek Tributary:</i>		At confluence with Kingfisher Creek .....	*1,042
Approximately 1,800 feet upstream of Southgate Road.....	*1,123	At confluence with Worley Creek .....	*1,244	Approximately 0.3 mile upstream of Oklahoma Avenue.....	*1,049
Upstream corporate limits.....	*1,132	Approximately 0.9 mile upstream of County Road .....	*1,281	<b>Maps available for inspection at the Kingfisher County Courthouse, Kingfisher, Oklahoma.</b>	
<b>Maps available for inspection at the Town Hall, Fairmont, Oklahoma.</b>		<i>Coal Creek:</i>		<b>Lahoma (town), Garfield County (FEMA Docket No. 7010)</b>	
<b>Fort Cobb (town), Caddo County (FEMA Docket No. 7010)</b>				<i>Lahoma Tributary:</i>	
<i>Cobb Creek:</i>				Approximately .4 mile downstream of U.S. Route 60 and State Route 15 .....	*1,231
Approximately 1,000 feet downstream of East Konner Avenue .....	*1,249				
At the East Konner Avenue .....	*1,251				
<b>Maps available for inspection at the Town Hall, 201 E. Main, Fort Cobb, Oklahoma.</b>					



Source of flooding and location	#Depth in feet above ground. *Eleva- tion in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. *Eleva- tion in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. *Eleva- tion in feet (NGVD)
Approximately .4 mile upstream of U.S. Route 60 and State Route 15.....	*1,250	<b>Jackson County (unincorporated areas) (FEMA Docket No. 7010)</b>		<b>West Middlesex (borough), Mercer County (FEMA Docket No. 7007)</b>	
<i>Unnamed Tributary of Lahoma Tributary:</i>		<i>Applegate River:</i>		<i>Shenango River:</i>	
At the downstream corporate limits.....	*1,234	At the Jackson-Josephine County boundary.....	*1,167	Approximately 180 feet downstream of the downstream corporate limits.....	*827
Approximately 100 feet upstream of corporate limits.....	*1,254	Approximately 140 feet upstream of Applegate Bridge.....	*1,268	Approximately 240 feet upstream of the upstream corporate limits.....	*829
<b>Maps available for inspection at the Town Hall, 203 Main Street, Lahoma, Oklahoma.</b>		Just upstream of Central Bridge.....	*1,420	<b>Maps available for inspection at the Borough Office, corner of Erie and Walnut, P.O. Box 582, West Middlesex, Pennsylvania.</b>	
<b>Lookaba (town), Caddo County (FEMA Docket No. 7010)</b>		Approximately 100 feet upstream of Cameron Bridge.....	*1,493		
<i>Sugar Creek:</i>		Just upstream of McKee Bridge.....	*1,613		
Approximately 125 feet downstream of downstream corporate limits of Town of Lookaba.....	*1,340	<b>Maps are available for review at the Jackson County Planning Department, Room 100, County Courthouse, 10 South Oakdale, Medford, Oregon.</b>		<b>TENNESSEE</b>	
At upstream corporate limits of Town of Lookaba.....	*1,349	<b>Josephine County (unincorporated areas) (FEMA Docket No. 7010)</b>		<b>Bradley County (unincorporated areas) (FEMA Docket No. 7007)</b>	
<b>Maps available for inspection at the Town Hall, Lookaba, Oklahoma.</b>		<i>Rogue River:</i>		<i>Hwassee River:</i>	
<b>Nash (town), Grant County (FEMA Docket No. 7010)</b>		Approximately 2,600 feet upstream of Sycamore Drive along Lower River Road.....	*888	About 2.93 miles downstream of confluence of Candies Creek.....	*689
<i>East Side Creek:</i>		At Coutant Lane extended.....	*891	About 11.70 miles upstream of Norfolk Southern Railway.....	*711
Approximately 500 feet downstream of Grand Avenue.....	*1,111	Approximately 300 feet downstream of Lincoln Avenue.....	*906	<i>Candies Creek:</i>	
Approximately 1,400 feet upstream of Grand Avenue.....	*1,113	At Shannon Lane extended.....	*928	About 800 feet downstream of Lower River Road.....	*690
<b>Maps available for inspection at the Town Hall, 115 South Main Street, Nash, Oklahoma.</b>		<i>Louse Creek:</i>		About 2,900 feet upstream of Black Fox Road.....	*765
<b>Oakmulgee County (unincorporated areas) (FEMA Docket No. 7010)</b>		Just upstream of Grants Pass Road extended.....	*1,103	<i>South Mouse Creek:</i>	
<i>Deep Fork Creek:</i>		Just downstream of Monument Drive.....	*1,121	About 0.94 mile downstream of Charleston Access Road.....	*696
Approximately 3.1 miles downstream of Burlington Northern Railroad.....	*625	Just upstream of Soldier Creek Road.....	*1,186	Just downstream of Charleston Access Road.....	*703
Approximately 2.2 miles upstream of confluence of South Oakmulgee Creek.....	*646	Just upstream of Granite Hill Road.....	*1,362	Just upstream of Charleston Access Road.....	*709
<i>Coal Creek:</i>		<i>Applegate River:</i>		About 1.14 miles upstream of Mapleton Drive.....	*770
Approximately .5 mile downstream of confluence of Coal Creek Tributary.....	*845	Approximately 800 feet downstream of confluence with Oscar Creek.....	*1,085	<i>Coahulla Creek:</i>	
Approximately .5 mile upstream of upstream crossing of Union Pacific Railroad.....	*686	At the confluence with Cars Creek.....	*1,135	About 3,600 feet downstream of confluence of Wolf Branch.....	*800
<i>Cussetah Creek:</i>		At the Josephine-Jackson County boundary.....	*1,167	About 1,150 feet upstream of Patterson Road.....	*850
At confluence of Deep Fork Creek.....	*628	<i>Waters Creek:</i>		<i>Wolf Branch:</i>	
Approximately .8 mile upstream of U.S. Route 62 and State Route 56.....	*644	At confluence with Slate Creek.....	*1,087	At mouth.....	*803
<i>South Oakmulgee Creek:</i>		Just upstream of State Highway 199.....	*1,093	About 1,400 feet upstream of Hunt Road.....	*846
At confluence with Deep Fork Creek.....	*645	At confluence with Salt Creek.....	*1,112	<i>Tributary C:</i>	
Approximately 1.7 miles upstream of confluence with Deep Fork Creek.....	*645	Just above Waters Creek Road.....	*1,150	At mouth.....	*826
<i>North Oakmulgee Creek:</i>		<b>Maps are available for review at the Department of Public Works, Josephine County Courthouse, Grants Pass, Oregon.</b>		About 2,800 feet upstream of mouth.....	*831
Approximately 100 feet downstream of State Route 56.....	*668	<b>PENNSYLVANIA</b>		<i>Goodwill Branch:</i>	
Approximately 1.42 miles upstream of Gun Club Road.....	*680	<b>Eutaw (township), Potter County (FEMA Docket No. 7006)</b>		At mouth.....	*804
<i>Dutch Creek:</i>		<i>Mill Creek:</i>		Just upstream of Goodwill Road.....	*821
At confluence with Coal Creek.....	*696	At downstream corporate limits.....	*1,716	<i>Waterville Branch:</i>	
Approximately 53 feet upstream of Interstate Highway 40.....	*691	Approximately .3 mile upstream of State Route 3006.....	*1,754	At mouth.....	*819
<i>Cussetah Creek Tributary:</i>		<b>Maps available for inspection at the Township Secretary's Residence, call for an appointment (814) 274-8102.</b>		About 0.83 mile upstream of mouth.....	*829
At confluence with Cussetah Creek.....	*831	<b>Masontown (borough), Fayette County (FEMA Docket No. 7007)</b>		<b>Maps available for inspection at the County Courthouse, Cleveland, Tennessee.</b>	
At County Road.....	*645	<i>Monongahela River:</i>		<b>DeKalb County (unincorporated areas) (FEMA Docket No. 7010)</b>	
<i>Unnamed Creek:</i>		At downstream corporate limits.....	*795	<i>Smith Fork Creek:</i>	
At confluence with Coal Creek.....	*653	<b>Maps available for inspection at the Borough Building, Two Court Street, Masontown, Pennsylvania.</b>		At county boundary.....	*514
Approximately 950 feet upstream of U.S. Routes 62 and 75.....	*668	<b>Nicholson (township), Fayette County (FEMA Docket No. 7007)</b>		About 2,200 feet upstream of Helton Road.....	*546
<b>Maps available for inspection at 719 E. Eighth Street, Oakmulgee, Oklahoma.</b>		<i>Monongahela River:</i>		<b>Maps available for inspection at the County Courthouse, Smithville, Tennessee.</b>	
<b>OREGON</b>		At confluence of Cats Run.....	*797	<b>McMinn County (unincorporated areas) (FEMA Docket No. 7007)</b>	
<b>Grants Pass (city), Josephine County (FEMA Docket No. 7010)</b>		At confluence of Georges Creek.....	*801	<i>Hwassee River:</i>	
<i>Rogue River:</i>		<b>Maps available for inspection at the Nicholson Township Building, Old Frame, Pennsylvania.</b>		At county boundary.....	*689
At Doreen Lane.....	*905	<b>Shenango (township), Mercer County (FEMA Docket No. 7007)</b>		At county boundary.....	*710
Approximately 1,000 feet downstream of the sewage treatment plant.....	*909	<i>Shenango River:</i>		<i>Oostanaula Creek:</i>	
At Belle Aire Drive.....	*921	At the downstream corporate limits.....	*819	About 2,600 feet downstream of confluence of Black Branch.....	*840
Approximately 1,400 feet upstream of Elm Lane extended.....	*926	Approximately 0.45 mile upstream of State Route 718.....	*836	About 1,500 feet upstream of confluence of Black Branch.....	*848
<b>Maps are available for review at the Department of Public Works, 101 Northwest A Street, Grants Pass, Oregon.</b>		<b>Maps available for inspection at the Shenango Township Building, R.D. 1, West Middlesex-Hubbard Road, West Middlesex, Pennsylvania.</b>		<i>Black Branch:</i>	
				At mouth.....	*843
				At confluence of Walker Branch.....	*845
				<i>Walker Branch:</i>	
				At confluence with Black Branch.....	*845
				About 350 feet upstream of confluence with Black Branch.....	*847
				<i>North Mouse Creek:</i>	
				Just upstream of Rocky Mount Road.....	*795
				Just downstream of County Route 255.....	*851
				<i>Little North Mouse Creek:</i>	
				At mouth.....	*631
				Just downstream of Shoemaker Road.....	*892
				Just upstream of Shoemaker Road.....	*899
				About 0.83 mile upstream of County Route 260.....	*920
				<i>Tributary No. 1 to North Mouse Creek:</i>	



Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
At mouth.....	*803	At the confluence with Waggoner Creek.....	*323	Approximately 0.5 mile upstream of confluence with McKinney Bayou.....	*317
About 0.3 miles upstream of mouth.....	*808	Approximately 700 feet upstream of FM 999.....	*347	<i>Stream MB-1A:</i>	
<b>Maps available for inspection at the County Courthouse, Athens, Tennessee.</b>		<i>Stream WC-4:</i>		Approximately 225 feet upstream of confluence with Stream MB-1.....	*290
<b>Monroe County (unincorporated areas) (FEMA Docket No. 7007)</b>		At the confluence with Waggoner Creek.....	*325	Approximately 510 feet upstream of confluence with Stream MB-1.....	*299
<i>Sinkhole Creek:</i>		Approximately 0.6 mile upstream of confluence with Waggoner Creek.....	*338	<i>Clear Creek:</i>	
Just upstream of Cagle Road.....	*884	<i>Spring Creek:</i>		Approximately 1.5 miles upstream of confluence with McKinney Bayou.....	*305
Just downstream of confluence of Tributary B.....	*1013	Approximately 1.8 miles upstream of confluence with Sulphur River.....	*214	Approximately 0.7 mile upstream of confluence of Stream CC-6.....	*323
<i>Bat Creek:</i>		Approximately 0.9 mile upstream of confluence of Stream SC-6.....	*301	<i>Stream CC-1:</i>	
About 800 feet upstream of confluence of Trib- utary C.....	*903	Approximately 0.7 mile upstream of confluence with Spring Creek.....	*214	At the confluence with Clear Creek.....	*305
About 3,000 feet upstream of confluence with Bat Creek Tributary.....	*924	Approximately 100 feet upstream of FM 2518.....	*259	Approximately 0.5 mile upstream of confluence with Clear Creek.....	*307
<i>Bat Creek Tributary:</i>		<i>Stream SC-2:</i>		<i>Stream CC-2:</i>	
At confluence of Bat Creek.....	*910	At the confluence with Spring Creek.....	*219	At the confluence with Clear Creek.....	*305
About 3,600 feet upstream of confluence of Bat Creek.....	*922	Approximately 0.9 mile upstream of confluence with Spring Creek.....	*258	Approximately 0.4 mile upstream of confluence with Clear Creek.....	*311
<b>Maps available for inspection at the County Court- house, Madisonville, Tennessee.</b>		<i>Stream SC-3:</i>		<i>Stream CC-3:</i>	
<b>Reese County (unincorporated areas) (FEMA Docket No. 7007)</b>		At the confluence with Spring Creek.....	*245	At the confluence with Clear Creek.....	*305
<i>Tennessee River:</i>		Approximately 100 feet upstream of FM 989.....	*307	Approximately 200 feet upstream of FM 559.....	*323
At downstream county boundary.....	*688	<i>Stream SC-3A:</i>		<i>Stream CC-4:</i>	
Just downstream of Watts Bar Dam.....	*698	At the confluence with Stream SC-3.....	*271	At the confluence with Stream CC-3.....	*305
Watts Bar Lake: Within community.....	*746	Approximately 950 feet upstream of FM 989.....	*300	Approximately 0.7 mile upstream of confluence with Stream CC-3.....	*334
<i>Piney River:</i>		<i>Stream SC-4:</i>		<i>Stream CC-5:</i>	
About 1,080 feet downstream of Toestring Road.....	*746	At the confluence with Spring Creek.....	*245	At the confluence with Stream CC-3.....	*305
About 3,100 feet upstream of State Route 68.....	*825	Approximately 1,250 feet upstream of Randall Road.....	*274	Approximately 100 feet upstream of Leggett Drive.....	*323
<i>Town Creek:</i>		<i>Stream SC-5:</i>		<i>Stream CC-6:</i>	
About 400 feet upstream of Kemmer Road.....	*767	At the confluence with Spring Creek.....	*264	At the confluence with Clear Creek.....	*306
Just downstream of J Lon Foust Highway.....	*777	Approximately 400 feet upstream of Cherokee Trail.....	*279	Approximately 80 feet upstream of Lionel Street.....	*334
<i>Little Richland Creek:</i>		<i>Stream SC-6:</i>		<i>Stream BC-1:</i>	
About 400 feet downstream of Walnut Grove Road.....	*696	At the confluence with Spring Creek.....	*278	Approximately 1,640 feet upstream of conflu- ence with Kings Lake.....	*293
About 120 feet downstream of Norfolk Southern Railway, upstream of confluence of Yarb- orough Branch.....	*761	Approximately 100 feet upstream of FM 989.....	*297	Approximately 260 feet upstream of Channel Dam.....	*340
<i>Tributary to Little Richland Creek:</i>		<i>Aiken Creek:</i>		<i>Stream BC-1A:</i>	
About 450 feet downstream of Hidden Valley Road.....	*725	Approximately 0.5 mile downstream of Henery Road.....	*235	Approximately 1,440 feet upstream of conflu- ence with Stream BC-1B.....	*293
About 300 feet upstream of Back Valley Road.....	*740	Approximately 0.3 mile upstream of Access Road.....	*318	Approximately 1.0 mile upstream of confluence with Stream BC-1B.....	*333
<i>Roaring Creek:</i>		<i>Stream AC-1:</i>		<i>Stream BC-2:</i>	
At mouth.....	*717	At the confluence with Aiken Creek.....	*244	Approximately 1.0 mile upstream of confluence with Barkman Creek.....	*295
Just downstream of Brayton Mountain Road.....	*867	Approximately 0.5 mile upstream of confluence of Stream AC-1A.....	*288	Approximately 1,900 feet upstream of Carter Lane.....	*330
Just upstream of Brayton Mountain Road.....	*876	<i>Stream AC-1A:</i>		<i>Stream BC-2A:</i>	
About 1,570 feet upstream of Brayton Mountain Road.....	*894	At the confluence with Stream AC-1.....	*279	Approximately 1,420 feet upstream of conflu- ence with BC-2.....	*295
<i>Sale Creek:</i>		Approximately 0.5 mile upstream of confluence with Stream AC-1.....	*301	Approximately 1.3 miles upstream of confluence with BC-2.....	*338
At confluence of Roaring Creek.....	*717	<i>Stream AC-2:</i>		<i>Stream BC-3:</i>	
About 1.4 miles upstream of Norfolk Southern Railway.....	*740	At the confluence with Aiken Creek.....	*259	Approximately 0.9 mile upstream of confluence with Barkman Creek.....	*295
<i>McGill Creek:</i>		Approximately 1,200 feet upstream of the con- fluence of Stream AC-2A.....	*303	Approximately 150 feet upstream of Myrtle Springs Road.....	*329
At mouth.....	*717	<i>Stream AC-2A:</i>		<i>Stream BC-3A:</i>	
About 1,330 feet upstream of Walker Road.....	*767	At the confluence with Stream AC-2.....	*296	Approximately 300 feet upstream of confluence with BC-3.....	*307
<i>Hickman Branch:</i>		<i>Stream AC-3:</i>		Approximately 100 feet upstream of Myrtle Springs Road.....	*328
At mouth.....	*731	At the confluence with Aiken Creek.....	*264	<b>Maps available for inspection at 100 N. State Line Road, Texarkana, Texas.</b>	
About 2,000 feet upstream of County Road.....	*749	Approximately 2.0 miles upstream of confluence with Aiken Creek.....	*307	<b>Cedar Park (city), Williamson County (FEMA Docket No. 7010)</b>	
<i>Whites Creek:</i>		<i>Stream AC-4:</i>		<i>Block House Creek:</i>	
About 2.5 miles downstream of J. Lon Foust Highway.....	*746	At the confluence with Aiken Creek.....	*265	At downstream side of U.S. Route 183.....	*969
About 0.48 miles upstream of Norfolk Southern Railway.....	*791	Approximately 180 feet upstream of Oak Forest Road.....	*284	Approximately 3,840 feet upstream of County Route 278.....	*1,014
<b>Maps available for inspection at the County Courthouse, Dayton, Tennessee.</b>		<i>Stream AC-5:</i>		<i>Spanish Oak Creek:</i>	
<b>TEXAS</b>		At the confluence with Aiken Creek.....	*265	Approximately 700 feet downstream of FM 1431.....	*912
<b>Bowie County (unincorporated areas) (FEMA Docket No. 7010)</b>		Approximately 0.4 mile upstream of confluence with Aiken Creek.....	*291	Approximately 190 feet upstream of Doris Lane.....	*992
<i>Waggoner Creek:</i>		<i>Stream AC-6:</i>		<i>Cluck Creek:</i>	
Approximately 0.4 mile downstream of U.S. Route 82.....	*300	At the confluence with Aiken Creek.....	*270	At the confluence with South Brushy Creek.....	*849
Upstream side of Birdwell-Davis Road.....	*355	Approximately 70 feet upstream of Tri State Road.....	*290	Approximately 1,530 feet upstream of Prize Oaks Drive.....	*1,006
<i>Stream WC-1:</i>		<i>Stream AC-7:</i>		<i>Cluck Creek Tributary 1:</i>	
At the confluence with Waggoner Creek.....	*307	At the confluence with Aiken Creek.....	*283	At confluence with Cluck Creek.....	*890
Approximately 300 feet upstream of Jonathan Street.....	*328	Approximately 1,100 feet upstream of Tri State Road.....	*305	Approximately 2,800 feet upstream of conflu- ence with Cluck Creek.....	*904
<i>Stream WC-2:</i>		<i>Stream AC-7A:</i>		<i>Buttercup Creek:</i>	
At the confluence with Waggoner Creek.....	*316	At the confluence with Stream AC-7.....	*292		
Approximately 0.4 mile upstream of Concord Place.....	*341	Approximately .6 mile upstream of confluence with Stream AC-7.....	*313		
<i>Stream WC-3:</i>		<i>Stream AC-7B:</i>			
		At the confluence with Stream AC-7.....	*297		
		Approximately 0.4 mile upstream of confluence with Stream AC-7.....	*306		
		<i>Stream MB-1:</i>			
		Approximately 0.4 mile upstream of confluence with McKinney Bayou.....	*290		



Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
At confluence with South Brushy Creek.....	*849	On the east side of Salatral lateral from approximately 0.6 mile downstream of the confluence of Ysleta Lateral to approximately 2.7 miles downstream of Celum Road.....	#1	<b>Hamilton (city), Hamilton County (FEMA Docket No. 7007)</b>	
Approximately 1,050 feet upstream of County Route 182 (Cypress Creek Road).....	*929	From approximately 0.2 mile upstream of the apex of Stream 6 to approximately 0.4 mile downstream of the apex of Stream 7.....	#2	<b>Pecan Creek:</b>	
<b>South Brushy Creek:</b>		From approximately 500 feet upstream of the apex of Stream 8 to approximately 500 feet downstream of the apex of Stream 9.....	#2	Approximately 1,600 feet downstream of East Gentry Street.....	*1,128
Approximately 550 feet downstream from confluence of Cluck Creek and Buttercup Creek.....	*847			At upstream corporate limits.....	*1,180
At confluence of Cluck Creek and Buttercup Creek.....	*849	<b>Maps available for inspection at the City-County Building, 500 E. San Antonio Street, Room 09, El Paso, Texas.</b>		<b>Tributary A:</b>	
<b>Maps available for inspection at City Hall, Cedar Park, Texas.</b>				At confluence with Pecan Creek.....	*1,146
				At upstream corporate limits.....	*1,211
<b>El Paso County (unincorporated areas) (FEMA Docket No. 6990)</b>				<b>Tributary B:</b>	
<b>Stream 1:</b>		<b>Florence (city), Williamson County (FEMA Docket No. 7010)</b>		At confluence with Tributary A.....	*1,162
Approximately 0.8 mile downstream of U.S. Route 80 (eastbound).....	*3,862	<b>South Salado Creek:</b>		At upstream corporate limits.....	*1,207
Approximately 480 feet upstream of Berkley.....	*3,878	Approximately 250 feet downstream of State Route 195.....	*963	<b>Maps available for inspection at the City Hall, 200 East Main, Hamilton, Texas 76531.</b>	
<b>Stream 2:</b>		At the Sawyer Lane.....	*988		
Approximately 0.6 mile downstream of U.S. Route 80 (eastbound).....	*3,668	<b>Fisher Branch:</b>		<b>Henderson (city), Rusk County (FEMA Docket No. 7010)</b>	
Approximately 1.4 miles upstream of U.S. Route 80 (westbound).....	*3,931	Approximately 210 feet downstream of FM 970 (South Street).....	*970	<b>Dutch Creek:</b>	
<b>Stream 3:</b>		Approximately 1,100 feet upstream of State Route 487 (Main Street).....	*992	At confluence with Shawnee Creek.....	*390
Approximately 0.6 mile downstream of U.S. Route 80 (eastbound).....	*3,679			Approximately 500 feet upstream of State Route 840.....	*422
Approximately 0.4 mile upstream of U.S. Route 80 (westbound).....	*3,832	<b>Maps available for inspection at the City Hall, Florence, Texas.</b>		<b>Shawnee Creek:</b>	
<b>Stream 4:</b>				Approximately 1.9 miles downstream of confluence of Dutch Creek.....	*366
Approximately 0.6 mile downstream of U.S. Route 80 (eastbound).....	*3,679	<b>Georgetown (city), Williamson County (FEMA Docket No. 7010)</b>		Approximately 70 feet upstream of U.S. Route 79.....	*436
Approximately 0.4 mile upstream of U.S. Route 80 (westbound).....	*3,815	<b>San Gabriel River:</b>		<b>Bromley Creek Tributary 1:</b>	
<b>Stream 5:</b>		At confluence of Berry Creek.....	*639	At downstream corporate limits.....	*396
Approximately 0.6 mile downstream of U.S. Route 80 (eastbound).....	*3,668	At confluence of North Fork San Gabriel River and South Fork San Gabriel River.....	*665	Approximately 1,100 feet upstream of State Route 13.....	*411
Approximately 0.6 mile upstream of U.S. Route 80 (westbound).....	*3,862	<b>North Fork San Gabriel River:</b>		<b>Bromley Creek:</b>	
<b>Stream 6:</b>		At confluence with South Fork San Gabriel River.....	*685	Approximately 500 feet downstream of downstream corporate limits.....	*366
Approximately 0.6 mile downstream of U.S. Route 80 (eastbound).....	*3,694	Approximately 1.4 miles upstream of the confluence of North Fork San Gabriel River Tributary 1.....	*730	Approximately 1.5 miles upstream of U.S. Route 79.....	*379
Approximately 500 feet downstream of U.S. Route 80 (westbound).....	*3,775	<b>South Fork San Gabriel River:</b>		<b>Hardy Creek:</b>	
<b>Stream 7:</b>		At confluence with the San Gabriel River.....	*685	Approximately 500 feet downstream of South Everside Street.....	*376
Approximately 0.6 mile downstream of U.S. Route 80 (eastbound).....	*3,690	Approximately 2.1 miles upstream Interstate Route 35 (Southbound).....	*744	Approximately 1,400 feet upstream of State Route 64.....	*437
Approximately 0.8 mile upstream of U.S. Route 80 (westbound).....	*3,859	<b>Middle Fork San Gabriel River:</b>		<b>Maps available for inspection at the City Hall, 400 West Main Street, Henderson, Texas.</b>	
<b>Stream 8:</b>		At confluence with North Fork San Gabriel River.....	*692		
Approximately 0.8 mile downstream of U.S. Route 80 (eastbound).....	*3,661	Approximately 2.9 miles upstream of confluence with North Fork San Gabriel River.....	*768	<b>Henderson County (unincorporated areas) (FEMA Docket No. 7010)</b>	
Approximately 0.9 mile upstream of U.S. Route 80 (westbound).....	*3,875	<b>Berry Creek:</b>		<b>Flat Creek:</b>	
<b>Stream 9:</b>		At confluence with San Gabriel River.....	*639	At State Route 314 (confluence with Lake Palestine).....	*354
Approximately 0.4 mile downstream of confluence with Stream 10.....	*3,660	Approximately 50 feet upstream of Service Road to Interstate 35 (Southbound).....	*686	At Dam of Lake Athens.....	*409
Approximately 0.6 mile upstream of the confluence with Stream 10.....	*3,750	<b>Pecan Branch:</b>		<b>Caney Creek:</b>	
<b>Stream 10:</b>		Approximately 140 feet downstream of Loop 418.....	*711	Approximately 0.91 mile downstream of County Route 1403.....	*334
At confluence with Stream 9.....	*3,668	Approximately 350 feet downstream of Seranada Drive.....	*760	At the County Route 3907.....	*392
Approximately 375 feet downstream of U.S. Route 80 (eastbound).....	*3,768	<b>Smith Branch:</b>		<b>Walnut Creek (Lower Reach):</b>	
<b>Stream 11:</b>		Approximately 0.6 mile upstream of confluence with San Gabriel River.....	*664	Approximately 0.82 mile downstream of State Route 3441.....	*292
Approximately 400 feet downstream of U.S. Route 80 (eastbound).....	*3,673	Approximately 150 feet upstream of Missouri-Kansas-Texas Railroad.....	*736	At the State Route 753.....	*350
<b>Stream 12:</b>		<b>West Fork of Smith Branch:</b>		<b>Sanders Creek:</b>	
Approximately 600 feet downstream of confluence with Stream 13.....	*3,708	Approximately 250 feet upstream of confluence with Smith Branch.....	*717	Approximately 0.7 mile downstream of FM 3225.....	*298
Approximately 400 feet downstream of U.S. Route 80 (eastbound).....	*3,756	Approximately 1,200 feet upstream of Service Road to Interstate Route 35 (Southbound).....	*781	Approximately 1.1 miles upstream of County Route 2404.....	*347
<b>Stream 13:</b>		<b>North Fork San Gabriel River Tributary 1:</b>		<b>Walnut Creek (Upper Reach):</b>	
At confluence with Stream 12.....	*3,726	At confluence with North Fork San Gabriel River.....	*698	Approximately 0.9 mile downstream of County Route 1500.....	*395
Approximately 125 feet downstream of U.S. Route 80 (eastbound).....	*3,765	Approximately 300 feet upstream of confluence with North Fork San Gabriel River.....	*705	Approximately 5 mile upstream of County Route 1500 (West College Street).....	*338
<b>Shallow Flooding:</b>		<b>Maps available for inspection at City Hall, Georgetown, Texas.</b>		<b>Coon Creek:</b>	
On the east side of Mesa Spur Drain from approximately 0.6 mile downstream of Moon Road to approximately 0.4 mile upstream of the apex of Stream 4.....	#1	<b>Granger (city), Williamson County (FEMA Docket No. 7010)</b>		Approximately 0.91 mile downstream of City of Athens.....	*433
On the east side of Mesa Spur Drain from approximately 0.4 mile upstream of the apex of Stream 4 to approximately 0.5 mile downstream of the apex of Stream 5.....	#2	<b>Willis Creek Tributary 1:</b>		At the City of Athens corporate limits.....	*452
At the apex of Stream 3.....	#2	Approximately 700 feet downstream of FM 971 (Davilla Street).....	*543	<b>Coon Creek North Tributary:</b>	
At the apex of Stream 4.....	#2	Approximately 550 feet upstream of Oak Street.....	*555	Approximately 500 feet upstream of the confluence with Coon Creek.....	*415
		<b>Maps available for inspection at City Hall, Granger, Texas.</b>		Approximately 2,170 feet upstream of the confluence with Coon Creek.....	*434
				<b>Coon Creek South Tributary:</b>	
				Approximately 0.7 mile downstream of Athens corporate limits.....	*425
				Approximately 1,000 feet upstream of FM 1615.....	*461
				<b>Maps available for inspection at Henderson County Courthouse Annex, 3rd Floor, Athens, Texas.</b>	



Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
<b>Hunt County (unincorporated areas) (FEMA Docket No. 7007)</b>		<b>Shannon Creek:</b>		<b>Greasy Creek:</b>	
<b>South Fork Sabine River:</b>		Approximately 1 mile upstream of State Route 174.....	*755	Approximately 1,050 feet downstream of County boundary.....	*472
Approximately 2,200 feet downstream of State Route 34.....	*446	Approximately 60 feet upstream of Atchison, Topeka & Santa Fe Railway.....	*783	At FM 986.....	*539
Approximately 1,200 feet upstream of County boundary.....	*494	<b>Stream VC-8:</b>		<b>Duck Creek:</b>	
<b>Greasy Creek:</b>		Approximately 100 feet downstream of Mountain Valley Estates Dam.....	*767	Approximately 2,000 feet downstream of County boundary.....	*454
At the confluence with South Fork Sabine River..	*451	Approximately 0.5 mile upstream of County Route 802.....	*800	Approximately 1,800 feet upstream of FM 2728.....	*435
Approximately 200 feet upstream of County boundary.....	*474	<b>Stream VC-8A:</b>		<b>Kings Creek (Lower Reach):</b>	
<b>Beapon Creek:</b>		At the confluence with Stream VC-8.....	*776	Approximately 1,700 feet upstream of confluence of Big Cottonwood Creek.....	*353
At the confluence with South Fork Sabine River..	*458	Approximately 75 feet upstream of County Route 802.....	*819	Approximately 2.6 miles upstream of FM 1388.....	*375
Approximately 0.95 mile upstream of Interstate Route 30 and U.S. Route 67.....	*552	<b>Willow Creek:</b>		<b>Prairie Branch:</b>	
<b>Brushy Creek:</b>		Approximately 550 feet upstream of State Route 174 westbound.....	*793	Approximately 2,200 feet upstream of confluence with Big Cottonwood Creek.....	*367
At the confluence with West Caddo Creek.....	*477	At the Atchison, Topeka Santa Fe Railway.....	*816	Upstream side of U.S. Route 175.....	*407
Approximately 350 feet upstream of F.M. 6.....	*534	<b>East Buffalo Creek Tributary A:</b>		<b>Walnut Creek:</b>	
<b>Lower Caddo Creek:</b>		At the confluence with East Buffalo Creek.....	*823	At the confluence with Cedar Creek.....	*349
Approximately 500 feet downstream of State Route 34.....	*446	Approximately 0.76 mile upstream of the confluence with East Buffalo Creek.....	*843	Approximately 2.2 miles upstream of confluence with Cedar Creek.....	*370
At the confluence of West Caddo Creek.....	*463	<b>East Buffalo Creek Tributary B:</b>		<b>Cedar Creek:</b>	
<b>West Caddo Creek:</b>		At the confluence with East Buffalo Creek.....	*804	Approximately 1.7 mile downstream of confluence of Walnut Creek.....	*341
At the confluence with Lower Caddo Creek.....	*463	Approximately 0.58 mile upstream of FM 3048.....	*844	At the confluence of Walnut Creek.....	*349
At the confluence of Brushy Creek.....	*477	<b>South Shannon Creek:</b>		<b>Lacy Fork:</b>	
<b>Jones Creek:</b>		Approximately 0.7 mile upstream of County Route 920 (Shaftstall Road).....	*779	Approximately 650 feet upstream of U.S. Route 175.....	*323
Approximately 0.56 mile downstream of State Route 34.....	*447	Approximately 1 mile upstream of County Route 920 (Shaftstall Road).....	*786	Approximately 1.9 mile upstream of U.S. Route 175.....	*333
Approximately 200 feet downstream of State Route 276.....	*486	<b>Walnut Creek:</b>		<b>Maps available for inspection at the County Courthouse, Kaufman, Texas.</b>	
<b>Farber Creek:</b>		Approximately 20 feet downstream of the confluence of Valley Branch.....	*627		
Approximately 100 feet downstream of FM 1903.....	*486	Approximately 50 feet downstream of FM 917.....	*710	<b>Leander (city), Williamson County (FEMA Docket No. 7010)</b>	
Approximately 3.8 miles upstream of Interstate Route 30 and U.S. Route 67.....	*560	<b>Walnut Creek Tributary A:</b>		<b>South Fork of Brushy Creek:</b>	
<b>Maps available for inspection at the Hunt County Courthouse, Greenville, Texas.</b>		At confluence with Walnut Creek.....	*659	Approximately 750 feet downstream of Southern Pacific Railroad.....	*955
		At downstream side of County Route 528.....	*718	Approximately 0.6 mile upstream of FM 2243.....	*993
<b>Hutto (city), Williamson County (FEMA Docket No. 7010)</b>		<b>Walnut Creek Tributary B:</b>		<b>Mason Creek:</b>	
<b>Cottonwood Creek:</b>		At confluence with Walnut Creek.....	*691	At confluence with Brushy Creek.....	*926
Approximately 500 feet downstream of County Route 132.....	*641	At Interstate Route 35W Service Road.....	*811	Just upstream of County Route 278 (Bagdad Road).....	*1,015
At downstream side of County Route 136.....	*652	<b>Valley Branch:</b>		<b>Block House Creek Tributary 1:</b>	
<b>Maps available for inspection at the City Hall, Hutto, Texas.</b>		At the confluence with Walnut Creek.....	*627	At County Route 272.....	*977
		Approximately 50 feet downstream of County Route 528.....	*683	Approximately 1,700 feet upstream of U.S. Route 183.....	*1,006
<b>Johnson County (unincorporated areas) (FEMA Docket No. 7010)</b>		<b>Valley Branch Tributary A:</b>		<b>Block House Creek Tributary 2:</b>	
<b>East Buffalo Creek:</b>		At the confluence with Valley Branch.....	*667	Approximately 50 feet downstream of U.S. Route 183.....	*971
At confluence of Unnamed Stream.....	*714	Approximately 1.3 miles upstream of County Route 808.....	*708	Approximately 1,550 feet upstream of Emerald Isle Drive.....	*1,019
At downstream side of County Route 705.....	*837	<b>King Branch:</b>		<b>Brushy Creek:</b>	
<b>McAnear Creek:</b>		At the confluence with Walnut Creek.....	*643	At confluence of Mason Creek.....	*926
At confluence with East Buffalo Creek.....	*730	Approximately 1.1 miles upstream of County Route 518.....	*687	Just downstream of FM 2243.....	*929
At County Route 1218.....	*828	<b>Maps available for inspection at the County Courthouse, Main and Henderson, Cleburne, Texas.</b>		<b>Maps available for inspection at the City Hall, Leander, Texas.</b>	
<b>West Buffalo Creek:</b>					
At confluence with East Buffalo Creek.....	*739	<b>Joshua (city), Johnson County (FEMA Docket No. 7010)</b>		<b>Llano County (unincorporated areas) (FEMA Docket No. 7007)</b>	
Approximately 450 feet downstream of Country Club Road.....	*740	<b>Village Creek:</b>		<b>Colorado River:</b>	
<b>Lockett Branch:</b>		At Lakeaire Drive and Dam.....	*806	Approximately 1,800 feet downstream of the downstream Llano County boundary.....	*828
Approximately 1,200 feet upstream of confluence with East Buffalo Creek.....	*762	Approximately 2,000 feet upstream of Lakeaire Drive and Dam.....	*817	At the upstream Llano County boundary.....	*1,029
Approximately 0.84 mile upstream of U.S. Route 67.....	*782	<b>Maps available for inspection at the City Hall, Joshua, Texas.</b>		<b>Llano River:</b>	
<b>Village Creek:</b>				At the confluence with the Colorado River.....	*839
At County Route 714.....	*725	<b>Kaufman County (unincorporated areas) (FEMA Docket No. 7006)</b>		At the downstream corporate limits of the City of Llano.....	*1,010
Approximately 790 feet upstream of the confluence of Stream VC-8.....	*759	<b>Buffalo Creek (North):</b>		<b>Maps available for inspection delineation are available for review at the County Courthouse, 801 Ford Street, Llano, Texas.</b>	
<b>Quil Miller Creek:</b>		At FM 740.....	*408		
Approximately 100 feet upstream of the confluence of Hurst Creek.....	*676	Approximately 2.5 miles upstream of FM 740.....	*429	<b>Madison County (unincorporated areas) (FEMA Docket No. 7010)</b>	
Approximately 200 feet upstream of Interstate Route 35W (southbound).....	*725	Approximately 2,000 feet downstream of FM 2932.....	*438	<b>Navasota River:</b>	
<b>Hurst Creek:</b>		Approximately .5 mile upstream of Interstate 20.....	*443	At downstream County boundary.....	*240
Approximately 60 feet upstream of the confluence with Quil Miller Creek.....	*675	<b>Big Brushy Creek:</b>		At upstream County boundary.....	*271
Approximately 403 feet upstream of County Route 532.....	*681	At FM 148 and FM 1641.....	*423	<b>Maps available for inspection at the County Courthouse, Madisonville, Texas.</b>	
<b>Bypass Creek:</b>		Approximately 200 feet upstream of FM 548.....	*476		
At confluence with Quil Miller Creek.....	*704	<b>Kings Creek (Upper Reach):</b>		<b>Malakoff (city), Henderson County (FEMA Docket No. 7010)</b>	
Approximately 200 feet downstream of Interstate Route 35W (northbound).....	*721	Approximately 1,200 feet downstream of the confluence with Hardin Branch.....	*450	<b>Walnut Creek (Lower Reach):</b>	
		Approximately 100 feet downstream of College Mound Road.....	*458	Approximately 400 feet downstream of State Route 3441.....	*297
		<b>Hardin Branch:</b>			
		At confluence with Kings Creek (Upper Reach).....	*452		
		At upstream side of FM 429.....	*468		



Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Approximately 600 feet upstream of State Route 3441 (Old State Route 90).....	*299	At the State Route 276.....	*488	Maps available for inspection at the Rusk County Courthouse, 115 North Main, Henderson, Texas.	
Maps available for inspection at the City Hall, 109 South Milton, Malakoff, Texas.		Maps available for inspection at the City Hall, Quinlan, Texas.			
Midland (city), Midland County (FEMA Docket No. 7010)		Round Rock (city), Williamson and Travis Counties (FEMA Docket No. 7010)		Sunrise Beach Village (city), Llano County (FEMA Docket No. 7010)	
Midland Draw:		Brushy Creek:		Lake Lyndon Baines Johnson (Colorado River):	
At upstream side of U.S. Route 80.....	*2,752	At County Route 122 bridge.....	*641	At Shady Side Lane.....	*830
Approximately 0.8 mile upstream of upstream corporate limits.....	*2,833	Approximately 325 feet upstream of confluence of Dry Fork.....	*746	At Cottonwood Drive extended.....	*832
Jal Draw:		Chandler Branch:		Maps available for inspection at the City Hall, 311 Sunrise Drive, Sunrise Beach, Texas.	
At confluence with Midland Draw.....	*2,786	Approximately 300 feet downstream of Union Pacific Railroad.....	*643		
Approximately 1,200 feet upstream of Loop 250.....	*2,836	Approximately 300 feet upstream of Interstate Route 35 bridge (Southbound).....	*743	Williamson County (unincorporated areas) (FEMA Docket No. 7010)	
Stream MD1:		Chandler Branch Tributary 1:		Brushy Creek:	
Approximately 500 feet upstream of FM 158.....	*2,739	At confluence with Chandler Branch.....	*739	Approximately 1.2 miles downstream of County Route 456.....	*492
700 feet upstream of confluence of Stream MD1A.....	*2,742	Approximately 1,400 feet upstream of Chandler Road.....	*768	Approximately 1,025 feet upstream of County Route 278.....	*1,000
Stream MD1A:		Dyer Branch:		Cottonwood Creek:	
At confluence with Stream MD1.....	*2,742	At confluence with Brushy Creek.....	*661	At confluence with Brushy Creek.....	*567
1,600 feet upstream of U.S. Route 80.....	*2,827	At upstream side of County Route 168 (Gattis School Road).....	*731	Approximately 1,600 feet upstream of County Route 136.....	*657
Stream MD3:		Dry Branch:		McNitt Creek:	
At confluence with Midland Draw.....	*2,767	At confluence with Dyer Branch.....	*661	At confluence with Brushy Creek.....	*630
600 feet upstream of North "I" Street.....	*2,789	Approximately 675 feet upstream of County Route 168 (Gattis School Road).....	*725	Approximately 1,750 feet upstream of County Route 117.....	*692
Stream MD2:		Dry Branch Tributary 1:		Chandler Branch:	
Approximately 1,200 feet upstream of Fair-ground Road.....	*2,766	At confluence with Dry Branch.....	*680	At confluence with Brushy Creek.....	*643
850 feet upstream of Lee Street.....	*2,771	Approximately 200 feet upstream of Williams Drive.....	*772	Approximately 1.18 miles upstream of Georgetown Railroad.....	*774
Maps available for inspection at City Hall, 300 North Lorean, Midland, Texas.		Lake Creek:		Chandler Branch Tributary 1:	
Midland County (unincorporated areas) (FEMA Docket No. 7010)		At confluence with Brushy Creek.....	*669	Approximately 900 feet upstream of Chandler Road.....	*764
Midland Draw:		Approximately 700 feet upstream of confluence of Rattan Creek.....	*754	Approximately 0.7 mile upstream of Chandler Road.....	*782
0.6 mile downstream of County Route 120.....	*2,691	Lake Creek Tributary 1:		Dyer Branch:	
Approximately 0.9 mile upstream of corporate limits of City of Midland.....	*2,834	At confluence with Lake Creek.....	*709	Approximately 100 feet downstream of Missouri-Kansas-Texas Railroad.....	*691
Jal Draw:		Approximately 1,350 feet upstream of Frontier Trail.....	*775	Approximately 0.63 mile upstream of Gattis School Road.....	*768
Approximately 1,200 feet upstream of Loop 250.....	*2,836	Rattan Creek Tributary 1:		Dry Branch:	
Downstream side of FM 1788.....	*2,895	Approximately 750 feet downstream of Quanah Drive.....	*766	Approximately 50 feet downstream of Missouri-Kansas-Texas Railroad.....	*668
Stream MD1:		Approximately 100 feet upstream of Union Pacific Railroad.....	*798	Approximately 0.50 mile upstream of Gattis School Road.....	*741
At confluence with Midland Draw.....	*2,723	Onion Branch:		Dry Branch Tributary 1:	
Approximately 500 feet upstream of FM 158.....	*2,739	At confluence with Brushy Creek.....	*685	Approximately 760 feet upstream of Logan Drive.....	*685
Stream MD1A:		Approximately 600 feet upstream of FM 3406 (Old Settlers Boulevard).....	*752	Approximately 2,100 feet downstream of Gattis School Road.....	*715
Approximately 950 feet upstream of confluence with Stream MD1.....	*2,742	Maps available for inspection at City Hall, 221 East Main Street, Round Rock, Texas.		Lake Creek:	
At downstream side of U.S. Route 80.....	*2,814	Rusk County (unincorporated areas) (FEMA Docket No. 7010)		At the confluence with Brushy Creek.....	*669
Stream MD2:		Shawnee Creek:		Approximately 1,200 feet upstream of Deerbush Trail.....	*964
At confluence with Midland Draw.....	*2,749	At confluence with Bromley Creek.....	*358	Lake Creek Tributary 1:	
Approximately 1,200 feet upstream of Fair-ground Road.....	*2,766	Approximately .58 mile upstream of FM 3310.....	*387	Approximately 1,125 feet upstream of Frontier Trail.....	*773
Monahans Draw:		Bromley Creek:		Approximately 0.53 mile upstream of Frontier Trail.....	*789
Approximately 2.1 miles downstream of County Route 1160.....	*2,694	At confluence with Shawnee Creek.....	*358	Rattan Creek Tributary 1:	
Approximately 0.8 mile upstream of Tower Road.....	*2,754	Approximately 900 feet upstream of State Route 13.....	*397	At the confluence with Rattan Creek.....	*755
Maps available for inspection at the County Extension Building, East Highway 80, Midland, Texas.		Dutch Creek:		Approximately 0.5 mile upstream of Union Pacific Railroad.....	*810
Parker County (unincorporated areas) (FEMA Docket No. 7010)		Approximately .9 mile upstream of confluence with Shawnee Creek.....	*409	Davis Spring Branch:	
Clear Fork Trinity River:		Approximately 680 feet upstream of State Route 840.....	*422	At the confluence with Lake Creek.....	*790
Approximately 0.4 mile downstream of confluence with Stream CFWP-1.....	*823	Adaway Creek:		Approximately 1.3 miles upstream of FM 620.....	*851
Approximately 1.2 miles upstream of Crown Road.....	*859	Approximately 1,150 feet above confluence with Mill Creek.....	*372	Lake Creek Tributary 2:	
Squaw Creek:		Approximately 75 feet upstream of Dam.....	*458	At the confluence with Lake Creek.....	*874
At the confluence with Clear Fork Trinity River.....	*840	Taylor Branch:		Approximately 50 feet upstream of Spillway Drive.....	*908
Approximately 0.4 mile upstream of confluence with Clear Fork Trinity River.....	*840	Approximately .9 mile upstream of confluence with Martin Creek.....	*269	Onion Branch:	
Brazos River:		Approximately 50 feet upstream of Doc Young Dam.....	*305	Approximately 600 feet upstream of FM 3406.....	*752
At downstream County boundary.....	*713	Taylor Branch Tributary 1:		Approximately 0.71 mile upstream of FM 3406.....	*756
Approximately 1,000 feet downstream of upstream County boundary.....	*773	At confluence with Taylor Branch.....	*284	South Brushy Creek:	
Maps available for inspection at the County Courthouse, 1 Courthouse Square, Weatherford, Texas.		Approximately .55 mile upstream of State Highway 53.....	*340	At the confluence with Brushy Creek.....	*764
Quinlan (city), Hunt County (FEMA Docket No. 7007)		Hardy Creek:		At the confluence of Cluck Creek and Buttercup Creek.....	*849
Jones Creek:		At confluence with Bromley Creek.....	*370	Buttercup Creek:	
Approximately 200 feet downstream of State Route 276.....	*486	Approximately 800 feet upstream of FM 323.....	*443	At the confluence with South Brushy Creek.....	*849
		Bromley Creek Tributary 1:		Approximately .8 mile upstream of County Route 182.....	*938
		At confluence with Bromley Creek.....	*381	Cluck Creek:	
		Approximately 730 feet upstream of Asphalt Drive.....	*411	At the confluence with South Brushy Creek.....	*849
				Approximately 0.49 mile upstream of Prize Oaks Drive.....	*1,018



Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
<b>Cluck Creek Tributary 1:</b>		Approximately 4 miles upstream of the confluence with Salado Creek.....	*912	<b>Maps available for inspection at the Town Clerk's Vault, Pittsfield, Vermont</b>	
Approximately .5 mile upstream of the confluence with Cluck Creek.....	*903	<b>Fisher Branch:</b>		<b>Topsham (town), Orange County (FEMA Docket No. 7010)</b>	
Approximately 1.42 miles upstream of the confluence with Cluck Creek.....	*944	At the confluence with South Salado Creek.....	*960	<b>Waits River:</b>	
<b>Spanish Oak Creek:</b>		At the downstream side of County Route 229.....	*1,006	At downstream corporate limits.....	*819
At the confluence with Brushy Creek.....	*795	<b>North Fork San Gabriel River Tributary 1:</b>		Approximately .9 mile upstream of State Route 25.....	*1,005
Approximately 990 feet upstream of Doris Lane.....	*1,001	Approximately 300 feet upstream of the confluence with the North Fork San Gabriel River.....	*705	<b>Tabor Branch:</b>	
<b>Block House Creek:</b>		Approximately 0.73 mile upstream of Booty's Crossing Road.....	*810	At downstream corporate limits.....	*713
At the confluence with Brushy Creek.....	*809	<b>Mustang Creek:</b>		Approximately 240 feet upstream of downstream corporate limits.....	*716
Approximately 0.80 mile upstream of County Route 278.....	*1,017	Approximately 0.4 mile upstream of Eastbound U.S. Highway 79 (Carlos Parker Loop).....	*538	<b>Maps available for inspection at the Town Office, West Topsham, Vermont.</b>	
<b>Block House Creek Tributary 1:</b>		Approximately 0.84 mile upstream of U.S. Highway 79.....	*550	<b>Vernon (town), Windham County (FEMA Docket No. 7010)</b>	
At the confluence with Block House Creek.....	*900	<b>Bull Branch:</b>		<b>Connecticut River:</b>	
At the Southern Pacific Railroad.....	*988	Approximately 150 feet upstream of North Drive.....	*584	At the downstream corporate limits.....	*209
<b>Block House Creek Tributary 2:</b>		Approximately 1,700 feet upstream of North Drive.....	*588	At the upstream corporate limits.....	*229
At the confluence with Block House Creek.....	*917	<b>Railroad Lake Draw:</b>		<b>Maps available for inspection at the Town Office, Vernon, Vermont.</b>	
At the U.S. Route 183.....	*971	Approximately 750 feet upstream of U.S. Highway 79.....	*561		
<b>Mason Creek:</b>		Approximately 0.8 mile upstream of U.S. Highway 79.....	*574		
At the confluence with Brushy Creek.....	*926	<b>Maps available for inspection at the Williamson County Courthouse, Georgetown, Texas.</b>			
Approximately 50 feet upstream of County Route 278.....	*1,015				
<b>South Fork of Brushy Creek:</b>					
At the confluence with Brushy Creek.....	*933				
Approximately 1.08 miles upstream of FM 2243.....	*1,013				
<b>San Gabriel River:</b>					
Approximately 0.45 mile downstream of downstream County boundary.....	*418				
Approximately 100 feet downstream of Park Road.....	*676				
<b>North Fork San Gabriel River:</b>					
Approximately 900 feet upstream of confluence of Middle Fork San Gabriel River.....	*692				
Approximately 1.2 miles upstream of the confluence of North Fork San Gabriel River Tributary 1.....	*722				
<b>Willis Creek Tributary 1:</b>					
At the confluence with Willis Creek.....	*526				
Approximately 0.52 mile upstream of Oak Street.....	*561				
<b>Berry Creek:</b>					
At the confluence with the San Gabriel River.....	*639				
Approximately 1.3 miles upstream of the confluence of Cowan Creek.....	*821				
<b>Berry Creek Tributary 1:</b>					
At the confluence with Berry Creek.....	*700				
Approximately 0.54 mile upstream of Logan Road.....	*762				
<b>Pecan Branch:</b>					
At the confluence with the San Gabriel River.....	*839				
Approximately 1,400 feet upstream of La Paloma.....	*825				
<b>Pecan Branch Tributary 1:</b>					
At the confluence with Pecan Branch.....	*777				
Approximately 425 feet upstream of Sequoia Trail East.....	*796				
<b>Smith Branch:</b>					
At the confluence with the San Gabriel River.....	*662				
Approximately 1,150 feet upstream of FM 1460.....	*756				
<b>West Fork of Smith Branch:</b>					
At the confluence with Smith Branch.....	*717				
Approximately 0.44 mile upstream of Service Road to Interstate Route 35.....	*785				
<b>South Fork San Gabriel River:</b>					
Approximately 150 feet upstream of Interstate Route 35 Southbound.....	*722				
Approximately 2.17 miles upstream of FM 1969.....	*1,001				
<b>Middle Fork San Gabriel River:</b>					
Approximately 0.83 mile upstream of the confluence with the San Gabriel River.....	*714				
Approximately 15.8 miles upstream of the confluence with the San Gabriel River.....	*1,007				
<b>Donahoe Creek:</b>					
At the downstream County boundary.....	*523				
Approximately 3.0 miles upstream of FM 1105.....	*730				
<b>Long Branch:</b>					
At the confluence with Donahoe Creek.....	*549				
Approximately 2.3 miles upstream of County Route 301.....	*643				
<b>Salado Creek:</b>					
At the downstream County boundary.....	*712				
At the confluence of North and South Salado Creeks.....	*833				
<b>South Salado Creek:</b>					
At the confluence with Salado Creek.....	*833				
Approximately 1.2 miles upstream of Main Street.....	*1,004				
<b>North Salado Creek:</b>					
At the confluence with Salado Creek.....	*833				



Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
<b>Piedmont (city), Mineral County (FEMA Docket No. 7013)</b>		<b>Independence (city), Trempealeau County (FEMA Docket No. 7010)</b>		<b>New Lisbon (city), Juneau County (FEMA Docket No. 7007)</b>	
<i>North Branch of Potomac River:</i>		<i>Trempealeau River:</i>		<i>Lemonweir River:</i>	
Approximately 2,845 feet downstream of confluence with Georges Creek.....	*896	About 1,800 feet downstream of Green Street.....	*771	About 0.9 mile downstream of Soo Line Railroad.....	*880
Approximately 590 feet upstream of Old Cromwell Street.....	*927	About 700 feet upstream of confluence of Elk Creek.....	*777	About 1,100 feet upstream of Interstate 90.....	*863
<b>Maps available for inspection at the City Hall, 52 Second Street, Piedmont, West Virginia.</b>		<i>Elk Creek:</i>		<b>Maps available for inspection at the City Hall, 218 E. Bldg Street, New Lisbon, Wisconsin.</b>	
		At mouth.....	*777		
		About 2,700 feet upstream of State Highway 93.....	*786		
		<b>Maps available for inspection at the City Hall, 110 W. Adams Street, Independence, Wisconsin.</b>			
				<b>Richland County (unincorporated areas) (FEMA Docket No. 7010)</b>	
<b>Randolph County (unincorporated areas) (FEMA Docket No. 7010)</b>		<b>Juneau County (unincorporated areas) (FEMA Docket No. 7007)</b>		<i>Pine River:</i>	
<i>Tygart Valley River:</i>		<i>Yellow River:</i>		Just upstream of County Highway 0.....	*718
Approximately 1.5 miles downstream of confluence of Leading Creek.....	*1,909	Just upstream of County Highway G.....	*883	Just downstream of County Highway AA.....	*744
Approximately 1.7 miles upstream of County Route 39.....	*2,020	At northern county boundary.....	*955	<i>Mill Creek:</i>	
<i>Leading Creek:</i>		<i>Lemonweir River:</i>		About 1.2 miles downstream of U.S. Highway 14.....	*738
At confluence with Tygart Valley River.....	*1,913	At mouth.....	*855	About 1,850 feet downstream of U.S. Highway 14.....	*740
Approximately 9 mile upstream of confluence of Peary Run.....	*1,931	Just downstream of County Highway C.....	*858	<i>Wisconsin River:</i>	
<i>Cut-Off Canal:</i>		Just upstream of Lemonweir Dam.....	*864	At western county boundary.....	*680
At confluence with Tygart Valley River.....	*1,914	Just downstream of County Highway M.....	*886	Just upstream of State Highway 130.....	*702
At divergence from Tygart Valley River.....	*1,924	<i>Cranberry Creek:</i>		<i>Kickapoo River:</i>	
<b>Maps available for inspection at the County Assessor's Office, County Annex Building, Randolph Street, Elkins, West Virginia.</b>		At mouth.....	*928	About 1,400 feet downstream of State Route 58.....	*767
		Just downstream of County Highway F.....	*947	About 2,000 feet upstream of State Route 58.....	*769
		<i>Little Yellow River:</i>		<b>Maps available for inspection at the Zoning Administrators Office, County Courthouse, Richland Center, Wisconsin.</b>	
		At mouth.....	*883		
		Just downstream of 30th Street.....	*903		
<b>Richwood (city), Nicholas County (FEMA Docket No. 7010)</b>		<i>Baraboo River:</i>		<b>Union Center (village), Juneau County (FEMA Docket No. 7007)</b>	
<i>Cherry River:</i>		About 2200 feet upstream of Hillsboro Street.....	*914	<i>Baraboo River:</i>	
Approximately .8 mile downstream of County Road 13.....	*2,158	Just downstream of Hillsboro and Northeastern railway.....	*918	About 3,300 feet downstream of confluence of West Branch Baraboo River.....	*918
At confluence of North Fork of Cherry River and South Fork of Cherry River.....	*2,213	<i>West Branch Baraboo River:</i>		Just downstream of Hillsboro and Northeastern railway.....	*918
<i>North Fork of Cherry River:</i>		At mouth.....	*918	<b>Maps available for inspection at the Village Hall, Union Center, Wisconsin.</b>	
At confluence with Cherry River.....	*2,213	Just upstream of Smith Road.....	*924		
Approximately 60 feet upstream of upstream corporate limits.....	*2,238	<i>Wisconsin River:</i>			
<i>South Fork of Cherry River:</i>		At southern county boundary.....	*848	<b>Wonevot (village), Juneau County (FEMA Docket No. 7007)</b>	
At confluence with Cherry River.....	*2,213	Just downstream of Castle Rock Dam.....	*864	<i>Baraboo River:</i>	
At upstream corporate limits.....	*2,239	Just upstream of Castle Rock Dam.....	*883	About 1.4 miles downstream of Gehri Road.....	*912
<b>Maps available for inspection at the City Hall, 8 White Street, Richwood, West Virginia.</b>		Just downstream of Peterwell Dam.....	*925	About 0.8 mile upstream of Hillsboro Street.....	*915
		Just upstream of Peterwell Dam.....	*925	<b>Maps available for inspection at Village Hall, 103 Washington Street, Wonevot, Wisconsin.</b>	
		At northern county boundary.....	*929		
		<i>Black Hawk Divergence:</i>			
		At mouth.....	*848		
		At divergence with Wisconsin River.....	*849		
<b>WISCONSIN</b>		<b>Maps available for inspection at the Courthouse Annex, Room 20, Mauston, Wisconsin.</b>			
<b>Amery (city), Polk County (FEMA Docket No. 6951)</b>				<b>WYOMING</b>	
<i>Apple River:</i>		<b>Marquette County (unincorporated areas) (FEMA Docket No. 7010)</b>		<b>Laramie County (unincorporated areas) (FEMA Docket No. 7010)</b>	
Just upstream of Griffin Street.....	*1,052	<i>Fox River:</i>		<i>Crow Creek:</i>	
Just downstream of Amery Dam.....	*1,059	At east county boundary.....	*769	2,500 feet downstream of Campstool Road.....	*5,882
Just upstream of Amery Dam.....	*1,068	At south county boundary.....	*782	Just downstream of Wyoming Hereford Ranch Reservoir No. 1 Dam.....	*5,919
About 1.0 mile upstream of Amery Dam.....	*1,068	<i>Neenah Creek:</i>		Just upstream of South College Drive.....	*5,977
<b>Maps available for inspection at the City Hall, 118 Center Street, Amery, Wisconsin.</b>		About 2.6 miles upstream of mouth.....	*783	Just upstream of Refinery Road.....	*6,008
		At confluence of Big Slough.....	*791	Just downstream of Interstate 25.....	*6,074
		<i>Neenah Lake:</i> Along shoreline.....	*853	<i>Dry Creek:</i>	
		<i>Lake Puckaway:</i> Along shoreline.....	*770	At confluence with Crow Creek.....	*5,888
		<i>Lake Montello:</i> Along shoreline.....	*787	Just upstream of the Union Pacific Railroad.....	*5,937
		<b>Maps available for inspection at the Zoning Department, County Courthouse, Room 104, Montello, Wisconsin.</b>		Just upstream of U.S. Highway 30.....	*5,971
				Just upstream of Prairie Avenue.....	*6,091
<b>Crawford County (unincorporated areas) (FEMA Docket No. 7010)</b>		<b>Mauston (city), Juneau County (FEMA Docket Number 7007)</b>		Just downstream of Buffalo Avenue.....	*6,153
<i>Kickapoo River:</i>		<i>Lemonweir River:</i>		<i>Western Hills Draw (North Fork Dry Creek):</i>	
About 1.0 mile downstream of Pleasant Ridge Road.....	*680	About 0.8 mile downstream of Union Street.....	*867	Just above Highway 25.....	*6,151
About 0.6 mile downstream of State Highway 131.....	*723	About 2.3 miles upstream of Union Street.....	*874	<i>Wyoming Hereford Ranch Reservoir No. 1 Emergency Spillway:</i>	
<i>Mississippi River:</i>		<b>Maps available for inspection at the City Hall, 303 Mansion Street, Mauston, Wisconsin.</b>		At the confluence with Crow Creek.....	*5,913
At confluence of Wisconsin River.....	*629			Just upstream of Old Campstool Road.....	*5,919
At county boundary.....	*834			Just upstream of Kingman Ditch.....	*5,928
<i>Wisconsin River:</i>				At Wyoming Hereford Ranch Reservoir Dam Breast.....	*5,941
At mouth.....	*829			<b>Maps are available for review at the County Engineering Office, 2503 East Fox Farm Road, Cheyenne, Wyoming.</b>	
At county boundary.....	*660				
<b>Maps available for inspection at the Zoning Administration Office, 220 N. Beaumont Road, Prairie du Chien, Wisconsin.</b>					
		<b>Necedah (village), Juneau County (FEMA Docket No. 7007)</b>			
<b>Elroy (city), Juneau County (FEMA Docket No. 7007)</b>		<i>Yellow River:</i>			
<i>Baraboo River:</i>		About 0.8 mile downstream of Chicago and North Western railroad.....	*900		
About 1,000 feet downstream of Main Street.....	*942	About 0.9 mile upstream of State Highway 21.....	*908		
About 2,500 feet upstream of Academy Street.....	*949	<b>Maps available for inspection at the Village Hall, 100 Center Street, Necedah, Wisconsin.</b>			
<b>Maps available for inspection at the City Hall, 225 Main Street, Elroy, Wisconsin.</b>					

The base (100-year) flood elevations are finalized in the communities listed



below. Elevations at selected locations in each community are shown. Any appeals of the proposed base flood elevations which were received have been resolved by the Agency.

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
<b>ARIZONA</b>	
<b>Phoenix (city), Maricopa County (FEMA Docket No. 7006)</b>	
<i>Agua Fria River:</i>	
Shallow flooding along west bank of Agua Fria River immediately upstream of Indian School Road.....	*1,008
At Thomas Road.....	*999
Approximately 530 feet upstream of Indian School Road.....	*1,010
At Camelback Road.....	*1,024
Approximately 200 feet upstream of the confluence with the New River.....	*1,033
Approximately 0.5 mile upstream of confluence with the New River.....	*1,038
<i>Cave Creek Wash (Below Grand Canal):</i>	
Just upstream of 51st Avenue.....	*1,014
Just downstream of 35th Avenue.....	*1,041
At Van Buren Street.....	*1,073
Just upstream of Thomas Road.....	*1,095
Just downstream of Grand Canal.....	*1,120
<i>Cave Creek Wash (Shallow Flooding Areas)</i>	
Approximately 500 feet upstream of the intersection of 19th Avenue and Earl Drive.....	*1,102
At 23rd Avenue, just downstream of Grand Canal.....	*1,117
<i>Cave Creek Wash (Shallow Flooding Along 21st Avenue):</i>	
Approximately 200 feet downstream of Grand Canal.....	*1,118
At Turney Avenue.....	*1,120
At Missouri Avenue.....	*1,142
<i>Cave Creek Wash (Shallow Flooding Along 19th Avenue):</i>	
At Roma Avenue.....	*1,120
At Lawrence Road.....	*1,171
Approximately 700 feet downstream of Northern Avenue.....	*1,192
<i>Cave Creek Wash (Shallow Flooding Along 15th Avenue):</i>	
At Grand Canal.....	*1,120
At Hazelwood Street.....	*1,125
Approximately 350 feet upstream of Montebello Avenue.....	*1,146
<i>Cave Creek Wash (Shallow Flooding Along 17th Avenue):</i>	
At Bethany Home Road.....	*1,151
Approximately 500 feet downstream of Maryland Avenue.....	*1,160
Approximately 500 feet downstream of Glendale Avenue.....	*1,169
<i>Cave Creek Wash (shallow flooding along 11th Avenue):</i>	
At Highland Avenue.....	*1,126
At Missouri Avenue.....	*1,140
Approximately 100 feet upstream of Montebello Avenue.....	*1,146
<i>Cave Creek Wash (shallow flooding along 7th Avenue):</i>	
At Highland Avenue.....	*1,125
At Georgia Avenue.....	*1,137
Approximately 500 feet downstream of Lawrence Road.....	*1,169
Maps are available for review at the City Hall, 251 West Washington Street, Phoenix, Arizona.	
<b>WEST VIRGINIA</b>	
<i>Alderson (town), Greenbrier and Monroe Counties (FEMA Docket No. 6987)</i>	
<i>Greenbrier River:</i>	
Downstream corporate limits.....	*1,549
Approximately 330 feet upstream of upstream corporate limits.....	*1,553

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the City Building, 202 South Monroe Street, Alderson, West Virginia.	

Issued: June 11, 1991.  
**C. M. "Bud" Schauerte,**  
*Administrator, Federal Insurance Administration.*  
 [FR Doc. 91-14444 Filed 6-19-91; 8:45 am]  
**BILLING CODE 6718-03-M**

## DEPARTMENT OF DEFENSE

### 48 CFR Parts 243, 249, and 252

#### Department of Defense Federal Acquisition Regulation Supplement; Contract Modifications and Termination of Contracts; Correction

**AGENCY:** Department of Defense (DOD).  
**ACTION:** Interim rule with request for comments; correction.

**SUMMARY:** The Defense Acquisition Regulations (DAR) Council has issued an interim DFARS rule to implement section 4201 of the Fiscal Year 1991 DoD Authorization Act (Pub. L. 101-510) which requires the Secretary of Defense to notify the Secretary of Labor if a modification or termination of a major defense contract or subcontract will have a substantial impact on employment. This is a correction to the interim rule, published on May 28, 1991, (56 FR 24030), to provide the effective date of the interim rule.

**DATES:** Effective Date: May 14, 1991.

**Comment Date:** Comments on the interim rule should be submitted in writing at the address shown below on or before June 28, 1991, to be considered in the formulation of the final rule. Please cite DAR Case 90-339 in all correspondence.

**ADDRESSES:** Interested parties should submit written comments to: Defense Acquisition Regulations Council, ATTN: Mr. Eric Mens, Procurement Analyst, DAR Council, OUSD(A)DP(DARS), room 3D139, The Pentagon, Washington, DC 20301-3000. Telefax Number (703) 697-9845.

**FOR FURTHER INFORMATION CONTACT:** Mr. Eric Mens, Procurement Analyst,

DAR Council, (703) 697-7286.

**Nancy L. Ladd,**  
*Colonel, USAF, Director, Defense Acquisition Regulations Council.*

[FR Doc. 91-14744 Filed 6-19-91; 8:45 am]

**BILLING CODE 3810-01-M**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

**RIN 1018-AB42**

#### Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Winged Mapleleaf Freshwater Mussel

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Fish and Wildlife Service (Service) determines the winged mapleleaf mussel (*Quadrula fragosa*) to be an endangered species under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act). Historically, this freshwater mussel occurred extensively in the Mississippi, Tennessee, Ohio and Cumberland River drainages in the states of Ohio, Indiana, Missouri, Tennessee, Nebraska, Iowa, Illinois, Wisconsin, Oklahoma and Kentucky. As a result of land use changes, river alterations and pollution, the winged mapleleaf mussel has been reduced to a single known population located in the St. Croix River between northwestern Wisconsin and east/central Minnesota. Critical habitat is not being proposed.

**EFFECTIVE DATE:** July 22, 1991.

**ADDRESSES:** The complete file for this rule is available for inspection, by appointment, during normal business hours at the Fish and Wildlife Service Regional Office, Federal Building, Ft. Snelling, Twin Cities, Minnesota 55111.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bill Harrison, Chief, Division of Endangered Species at the above address (612/725-3276 or FTS 725-3276).

#### SUPPLEMENTARY INFORMATION:

##### Background

The earliest record of the winged mapleleaf mussel (*Quadrula fragosa*) dates from 1835 when Conrad described this North American freshwater mussel from the Scioto River, Ohio. He described this species as similar to the mapleleaf mussel (*Quadrula quadrula*),



but "much more ventricose" having more prominent tubercles and being very distinct. Occurrence records of the winged mapleleaf were not infrequently reported until about 1920. From the 1920's to the present, few occurrences were reported and some experts considered it extinct. These few post-1920 occurrence records include the collection of three specimens from Wayland, Missouri (Ohio State Museum of Zoology collection), possibly as late as 1968 and a small population on the St. Croix River between Minnesota and Wisconsin discovered in 1987 (Marion Havlik, Malacological Consultants, *in litt.*, 1990).

There is a disagreement about whether the winged mapleleaf mussel, *Quadrula fragosa*, is a distinct species or a subspecies of *Quadrula quadrula*. *Quadrula fragosa* was synonymized as a variant of *Q. quadrula* by Neel (1941) based on morphological intergrades. Since Neel's study Burch (1975), Johnson (1980), and Oesch (1990) have recognized the synonymy. Recently, David Stansbery (Ohio State University, *in litt.*, 1991) has refuted Neel based on his own research of morphological characteristics, stating, "An examination of material of these two species in all or nearly all of our major museums over the years has failed to turn up any intergrading forms between the two. This total lack of intergrades indicates that they are distinct species rather than subspecies or environmental forms as was previously believed by myself and others \* \* \*". Stansbery also said that there may be a second population or sibling species of *Q. fragosa* on the Kiamichi River in Oklahoma. The Service recognizes the need for further taxonomic and distributional research, but does not intend to allow the St. Croix River population to go extinct while the uncertainties are resolved.

The winged mapleleaf can be distinguished from *Q. quadrula* using several characteristics. The shell is more inflated and more quadrate in outline. The shell's beaks are more elevated and turned forward over the lunule (Baker 1928). The winged mapleleaf is more alate and has ridges on the alae while the mapleleaf often has distinct pustules (Stansbery, pers. comm.). Young in the genus *Quadrula* are almost indistinguishable (Neel 1941).

Little is known about the ecology and habits of the winged mapleleaf, presumably because of its historic rarity and early population reductions. Baker (1928) reported it occupied larger rivers on a mud bottom in water two meters or more in depth. Ortmann (1925) indicated

it may prefer gravel bars. Recent observation on the extant population indicated that it exists in the riffle areas of the St. Croix and is absent from muddy microhabitat (David Heath, Wisconsin Department of Natural Resources, *in litt.*, 1989).

Few historical records exist that report population demographics or brooding period of the winged mapleleaf. Recent attempts have been made to determine when the winged mapleleaf broods young. No individuals have been observed brooding young. In addition, in a sample of 41 specimens, none were collected that were younger than four years of age (Heath and Rasmussen 1990). In fact, a survey by the Wisconsin Department of Natural Resources conducted in 1988 suggests that the St. Croix population has not reproduced since 1983. Population density at the only known location was one individual per 52 square meters and constituted less than 0.02% of the mussel community.

A fairly rich mussel assemblage of 32 species inhabit the extant winged mapleleaf site on the St. Croix River. Most associates are fairly common species in the upper Mississippi River system, but several species are considered rare. These rare species, which are characteristic of well-preserved streams, include the Federal Category 2 spectacle case (*Cumberlandia monodonta*), salamander mussel (*Simpsonaias ambigua*), and the Federally endangered Higgins' eye (*Lampsilis higginsii*). Other rare species that co-occur include the snuffbox (*Epioblasma triquetra*), purple wartyback (*Cyclonaias tuberculata*), and buckhorn (*Tritoginia verrucosa*).

The historic geographic range of the winged mapleleaf is fairly well-documented. It occurred in at least ten states; Ohio, Indiana, Missouri, Tennessee, Nebraska, Iowa, Illinois, Wisconsin, Oklahoma, and Kentucky. Disregarding the single known extant population, nearly all collections were made prior to 1925.

Simpson (1900, 1914) and La Rocque (1967) reported the winged mapleleaf from the Ohio, Cumberland, and Tennessee River systems west probably to Minnesota and Nebraska. It was reported from the Ohio River by the Commonwealth of Kentucky Department of Fish and Wildlife Resources (1989), Sterki (1907), Coker (1921), Call (1896, 1900), Simpson (1900, 1914), La Rocque (1967), Stansbery (1985, 1989), and vouchered in the United States National Museum (USNM) collection. Ohio River tributaries where the winged mapleleaf was reported

include the Scioto River (Conrad 1835, the Ohio State University Museum of Zoology (OSUMZ) collection), the Licking River (Commonwealth of Kentucky State Natural Preserves Commission 1989, Commonwealth of Kentucky Department of Fish and Wildlife Resources 1989), Racoon Creek (OSUMZ collection, Watters 1988), the Wabash River (Call 1896, OSUMZ collection, USNM collection, La Rocque 1967) and the White River (Call 1896, Academy of Natural Sciences of Philadelphia (ANSP) collection).

Within the Tennessee River System, collections have been reported from the Tennessee River (Ortmann 1925, Starnes and Bogan 1988), the Cumberland River (Wilson and Clarke 1914, Danglade 1914, Starnes and Bogan 1988, Commonwealth of Kentucky State Natural Preserves Commission 1989, Commonwealth of Kentucky Department of Fish and Wildlife Resources 1989), the Harpeth River (Starnes and Bogan 1988), and from the Duck River (Ortmann 1925, Starnes and Bogan 1988).

In the upper Mississippi River system, it has been reported from the Mississippi River (Utterback 1915-1916, Stansbery 1989, Frest 1987, Grier and Mueller 1922-1923, Shimek 1888, 1921, Field Museum of Natural History (FMNH) collection, OSUMZ collection, Illinois Natural History Survey (INHS) collection, USNM collection, Keys 1889, Havlik and Stansbery 1977, Havlik and Marking 1980, Heath 1981-1985, Bell Museum of Natural History (BMNH) collection). Upper Mississippi River tributaries containing winged mapleleaf included the Cedar River (Frest 1987, Shimek 1888, FMNH collection, OSUMZ collection, USNM collection); the Des Moines River (Keyes 1889); the Racoon River; the Iowa River (Keyes 1889); the Illinois, Kaskaskia and Spoon Rivers, (Grier and Mueller 1922-1923, Baker 1906; FMNH collection, ANSP collection, Starrett 1971, and Strode 1891, 1892); and the Sangamon River (OSUMZ collection, ANSP collection, University of Michigan Museum of Zoology (UMMZ) collection, INHS collection). Additional upper Mississippi River drainage locales where the winged mapleleaf have been recorded include the Wisconsin and Baraboo Rivers (Baker 1928, Morrison 1929, Heath 1988b; FMNH collection, BMNH collection, OSUMZ collection), the Minnesota River (Havlik 1990, OSUMZ collection, BMNH collection), and the St. Croix River (Heath 1985, University of Illinois Museum of Natural History (UIMNH) collection).

In Oklahoma, the winged mapleleaf occurred in the Boggy, Little, and



Neosho Rivers (Isley 1925). There may be an existing population or sibling species of *O. fragosa* in the Kiamichi River (Stansbery, *in litt.*, 1991). In Nebraska the mussel occurred in the Bow and Blue Rivers (Aughey 1877). Missouri records were from the Osage, Fox, and 102 (at St. Joseph) Rivers (Utterback 1915-1916, OSUMZ collection).

The winged mapleleaf freshwater mussel was included as a Category 2 species in the 1984 notice of review (49 FR 21664-21675). Category 2 species are those for which the Service does not have conclusive data on biological vulnerability and threat to the degree that support a proposed rule. In the 1989 notice of review (54 FR 554-579) the mussel was changed to a Category 3C species, which indicated that it was more abundant and/or widespread than previously thought, and that threats were not substantial. However, the Service was advised that this designation might be in error. Subsequently, all states with historic records were again contacted. As a result of that correspondence and information gained through recent surveys, the Service determined that the species was in need of protection. The most recent surveys and biological data as to distribution and threats were incorporated into the proposed rule to determine endangered status for the winged mapleleaf freshwater mussel issued in the Federal Register of August 6, 1990 (55 FR 31864-31867).

#### Summary of Comments and Recommendations

In the August 6, 1990 proposed rule, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A notice inviting public comment was published in the St. Paul Pioneer Press, August 28, 1990.

Eight comments were received: five of these were letters of support for listing the winged mapleleaf mussel as endangered (Minnesota Department of Natural Resources, National Park Service, Wisconsin Department of Natural Resources, Dr. David Stansbery of the Museum of Zoology, Ohio State University, and Fish and Wildlife Service, Region 4); one letter, from Dr. Richard Johnson, Harvard University, questioned the taxonomic decision to treat *Q. fragosa* as a species. The Kansas Biological Survey observed that the mussel did not occur in Kansas as

originally stated in the proposed rule. One letter, from Northern States Power Company, was in opposition to the proposed listing.

Northern States Power Company questioned the validity of listing this species based on present evidence. They believed that the taxonomic status of the species should be confirmed before listing. They suggested the flow regime at the power plant on the St. Croix River actually might be beneficial to the population since the regime hadn't changed in 84 years.

The Service considered these comments and criticisms and rewrote the final rule to address them. The Service recognizes that the taxonomic question needs further study, and that there is a need for more research on the distribution and ecology of the species. The Service decided to proceed with listing in view of the evidence of morphological distinctiveness and the potential threat to the St. Croix River population of *Quadrula fragosa*.

#### Summary of Factors Affecting the Species

After a thorough review and consideration of all available information, the Service has determined that the winged mapleleaf mussel, *Quadrula fragosa*, should be classified as an endangered species. Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provision of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be endangered or threatened according to one or more of the five factors described in section 4(a)(1). These factors and their application to the winged mapleleaf are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Historically, the winged mapleleaf mussel was known from eleven states and three major drainage systems in North America. This species has been eliminated from 99% of its historical range. Habitat modification including land use changes, river channel modifications, and pollution are the primary factors threatening the continued existence of the winged mapleleaf. The species was usually found in well-preserved large to medium-sized clear-water streams in riffles or on gravel bars. These areas have been lost due to the development of impoundments, channelization, soil erosion, and sediment accumulation originating from land use practices.

Additional threats to the small, remaining population include expanded

agriculture or modified land use practices in the watershed, toxic substance spills, point discharges of harmful chemicals, low water levels, and large recreational boat traffic. The small size of the population makes it particularly vulnerable to single catastrophic events and genetic deterioration. These factors may affect the host fish (presently unknown) which is necessary for the reproduction of the winged mapleleaf in addition to affecting the remaining mussel population.

Minnesota and Wisconsin Departments of Natural Resources agree that the peaking operation of Northern States Power Company power plant located upstream from the mussel bed is posing a possible threat to the mussel population. The normal winter operation of Northern States Power Company is a twice daily peaking mode (once a day during droughts) with only 800 cfs being discharged between peaking operations. It appears that this is not enough water to cover the beds at night so the clams are exposed to freezing, abrasion, and predation. In fact, in 1989, the peaking operation completely exposed the beds during the night. In 1991, the Wisconsin Department of Natural Resources surveyed the bed and found that a layer of ice 13 inches deep was laid directly on the gravel of the bed with each lowering of flow (Miller, *in litt.*, 1991). The ice layer adhered to and abraded the bottom exposing the mussels. The Minnesota Department of Natural Resources conducted a wetted perimeter study for this portion of the river and found that the dam must release 1980 cfs to adequately protect the mussel beds (Nargang, *in litt.*, 1991). Given the direct exposure that the mussel bed is currently experiencing, the Service believes that there is an immediate danger to the only known population of *Q. fragosa*. The Service will cooperate with Northern States Power Company, the Minnesota and Wisconsin Departments of Natural Resources, and the National Park Service to study the effect of "peaking" on the population.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Collection of the winged mapleleaf for these purposes is believed to have been a minor factor in its decline. It was harvested during the early 1900's for the pearl button industry in the United States (Coker 1921). At present the population is partially protected from harvest by Wisconsin harvesting laws and by a National Park Service Superintendent Determination (March 5, 1990) for the St. Croix



National Scenic Riverway. Some recreational collecting may occur.

C. *Disease or predation.* No disease or predation has been recorded for the winged mapleleaf.

D. *The inadequacy of existing regulatory mechanisms.* The winged mapleleaf is presently protected by Wisconsin and by a Superintendent Determination (March 5, 1990) of the National Park Service (NPS) for the St. Croix National Scenic Riverway. The Act offers possibilities for additional protection through Section 6 by cooperation between States and the Service, and cooperation through section 7 (interagency cooperation) requirements, in particular with the NPS St. Croix National Scenic Riverway.

E. *Other natural or manmade factors affecting its continued existence.* The single remaining population is small, located on less than five miles of the St. Croix River and is immediately threatened by lack of any reproduction. During surveys in 1988 and 1989, Heath and Rasmussen (1990) were unable to locate individuals less than four years of age although members of related species in the genus *Quadrula* were collected that were less than four years of age. In addition, they were unable to locate any winged mapleleaf individuals brooding young. Lack of young individuals and brooding females could be a natural cyclic phenomenon, an artifact of sampling, or an abrupt cessation of reproduction, but other mussels at the location did not evidence reproductive problems. If recent observations reflect trends in the population, the continued existence of the species is in serious doubt.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the winged mapleleaf as an endangered species. Due to the threats and vulnerability of the single remaining population, it is believed that the species will continue to decline unless immediate corrective actions are taken. For reasons detailed below, it is not considered prudent to propose designation of critical habitat.

#### Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for the winged mapleleaf freshwater mussel. This

determination is based on the premise that such designation would not be beneficial to the species (50 CFR 424.12), and little additional benefit would be gained, since the single extant location is presently receiving protection from the NPS and the State of Wisconsin. Critical habitat designation would not provide additional protection over that afforded through the normal section 7 consultation procedures. The NPS and the States of Minnesota and Wisconsin are cognizant of the location of this population of winged mapleleaf and of the importance of protecting its habitat.

#### Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibition against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. The NPS administers the portion of the St. Croix River where the winged mapleleaf is found. The Service has not identified any ongoing or proposed NPS projects that could affect this species.

The Act and its implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.22 and 17.23 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connections with otherwise lawful activities. In some instances, permits may be issued for a specified time to relieve undue economic hardship that would be suffered if such relief were not available.

#### National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

#### References Cited

A complete list of all references cited herein, as well as others, is available upon request from (see ADDRESSES above).

#### Author

The primary author of this final rule is Jan L. Eldridge (see ADDRESSES section). Mr. David J. Heath, Wisconsin Department of Natural Resources, Rhinelander, Wisconsin 54501 (715) 362-7616, provided substantial information.

#### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.



## Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

## PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1543; 16 U.S.C. 4201-4245; Public Law 99-625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under CLAMS, to the List of Endangered and Threatened Wildlife:

## § 17.11 Endangered and threatened wildlife.

\* \* \* \* \*

(h) \* \* \*

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
CLAMS.....	.	.	.	.	.	.	.
Mussel, winged mapleleaf.....	<i>Quadrula fragosa</i> .....	U.S.A. (WI, IL, MN, MO, OH, NE, TN, KY, IN, IA, OK).	NA.....	E.....	NA.....	NA.....	NA.....

Dated: June 11, 1991.

Bruce Blanchard,

Acting Director, Fish and Wildlife Service.

[FR Doc. 91-14655 Filed 6-19-91; 8:45 am]

BILLING CODE 4310-55-M

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 630

[Docket No. 910640-1140]

## Atlantic Swordfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency rule; corrections.

SUMMARY: NMFS corrects errors in the emergency rule governing the Atlantic

swordfish fishery published June 12, 1991 (56 FR 26934).

EFFECTIVE DATES: June 12, 1991 through December 9, 1991.

## FOR FURTHER INFORMATION CONTACT:

Richard B. Stone, NMFS (F/CM3), 301-427-2347.

SUPPLEMENTARY INFORMATION: In rule document 91-13924 beginning on page 26934 in the issue of Wednesday, June 12, 1991, make the following corrections:

1. On page 26934, in the first column, under the "SUMMARY" heading in the tenth line after "carcass length" insert "or 41 pounds (18.6 kilograms) dressed carcass weight".

2. On page 26935, in the third column, under the "Minimum Size Limit" subheading in the second line after "carcass length" insert "or 41 pounds (18.6 kilograms) dressed carcass weight".

3. On page 26936, in the first column, under the "Minimum Size Limit" subheading in the fortieth line after "carcass length" insert "or 41 pounds (18.6 kilograms) dressed carcass weight".

4. On page 26936, in the third column, under the "Annual Quota" subheading in the 42nd line after "closure is" insert "at least".

## § 630.26 [Corrected]

5. On page 26938, in the first column, in § 630.26 (a), *Minimum Size*, in the eleventh line after "(CK measurement)" insert ", or 41 pounds (18.6 kilograms) dressed carcass weight".

Dated: June 14, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries National Marine Fisheries Service.

[FR Doc. 91-14664 Filed 6-19-91; 8:45 am]

BILLING CODE 3510-22-M



# Proposed Rules

Federal Register

Vol. 56, No. 119

Thursday, June 20, 1991

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 581

RIN 3206-AE54

### Processing Garnishment Orders for Child Support and/or Alimony

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rule.

**SUMMARY:** On November 5, 1990, Congress enacted the Federal Employees Pay Comparability Act of 1990, Public Law 101-509. As a result of this legislation, the Office of Personnel Management proposes a revision to its regulations in 5 CFR part 581 concerning the processing of garnishment orders for child support and/or alimony. The proposed amendment adds several new types of bonuses, allowances, and adjustments that were authorized by the Pay Comparability Act to the list of payments that OPM considers to be remuneration for employment for purposes of garnishment. At the request of the Federal Retirement Thrift Investment Board, we are deleting the reference to 5 U.S.C. 8437 in the authority citation.

**DATES:** Comments should be received by July 22, 1991.

**ADDRESSES:** Send or deliver comments and/or designated agent information, including new WITS telephone number(s), to Jaime Ramon, General Counsel, Office of Personnel Management, room 7355, 1900 E Street NW., Washington, DC 20415.

**FOR FURTHER INFORMATION CONTACT:** Murray M. Meeker, (202) 606-1980 or FTS 266-1980.

**SUPPLEMENTARY INFORMATION:** Governmental entities are urged to review the current list of designated agents, appendix A to part 581 (55 FR 1354, January 18, 1990), to ensure that their listing is correct. The great

majority of entities who have received new Washington Interagency Telecommunications System (WITS) telephone numbers have not yet notified OPM of their new number(s).

### E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

### Regulatory Flexibility Act

I certify that these regulations will not have significant economic impact on a substantial number of small entities because their effects are limited primarily to Federal employees.

### List of Subjects in 5 CFR Part 581

Alimony, Child welfare, Government employees, Wages.

U.S. Office of Personnel Management.

Constance Berry Newman,  
Director.

Accordingly, OPM proposes to amend 5 CFR part 581 as follows:

### PART 581—PROCESSING GARNISHMENT ORDERS FOR CHILD SUPPORT AND/OR ALIMONY

1. The authority citation for part 581 is revised to read as follows:

**Authority:** 42 U.S.C. 659, 661-662; 15 U.S.C. 1673; E.O. 12105

2. Section 581.103 is amended by republishing paragraph (a) introductory text, revising paragraphs (a)(10), (a)(20), (a)(21), (a)(22), and (a)(23)(v), and by adding paragraphs (a)(24), (a)(25), (a)(26), and (a)(27) to read as follows:

### § 581.103 Moneys which are subject to garnishment.

(a) For the personal service of a civilian employee obligor:

\* \* \* \* \*

(10) Recruitment incentives, recruitment and relocation bonuses and retention allowances;

\* \* \* \* \*

(20) Cash awards, including performance-based cash awards;

(21) Agency and Presidential incentive awards (except where such award is for making a suggestion);

(22) Senior Executive Service rank and performance awards;

(23) Moneys due for the services of a deceased employee obligor, including:

\* \* \* \* \*

(v) Amounts of checks drawn for moneys due which were not delivered by the governmental entity to the employee obligor prior to the employee obligor's death or which were not negotiated and returned to the governmental entity because of the death of the employee obligor, except those moneys due that are listed in § 581.104(i);

(24) Interim geographic adjustments and locality-based comparability payments;

(25) Staffing differentials;

(26) Supervisory differentials; and

(27) Special pay adjustments for law enforcement officers in selected cities.

\* \* \* \* \*

[FR Doc. 91-14754 Filed 6-19-91; 8:45 am]

BILLING CODE 6325-01-M

## DEPARTMENT OF AGRICULTURE

### Farmers Home Administration

### 7 CFR Part 1924

### Construction and Repair

**AGENCY:** Farmers Home Administration, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Farmers Home Administration (FmHA) proposes to amend its Construction and Repair regulations. This action is taken to implement the provisions of the Cranston-Gonzalez National Affordable Housing Act, to remove a sentence that restricts random development of sites in open country. A paragraph is added to explain site approval in remote rural areas. The intended effect of this action is to strengthen the Agency's mission rural development.

**DATES:** Comments must be received on or before August 19, 1991.

**ADDRESSES:** Submit written comments in duplicate to the Office of the Chief, Regulations Analysis and Control Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, South Agriculture building, 14th and Independence SW., Washington DC 20250. All written comments will be available for public inspection at the above address.

**FOR FURTHER INFORMATION CONTACT:** Billy J. Chapman, Senior Loan Specialist, at Farmers Home Administration,



USDA, Room 5464, South Agriculture Building, 14th and Independence SW, Washington DC 20250, Telephone (202) 382-1485.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 which implements Executive Order 12291, and has been determined to be nonmajor because there is no substantial change from practices under existing rules that would have an annual effect on the economy of \$100 million or more. There is no major increase in cost or prices for consumers, individual industries, Federal, States, or local government agencies or geographical regions or significant adverse effects on competition, employment, productivity, innovation or in the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

#### Regulatory Flexibility Act

La Verne Ausman, Administrator of Farmers Home Administration, has determined that this action will not have a significant economic impact on a substantial number of small entities because the regulatory changes affect FmHA processing and servicing of insured and guaranteed rural housing loans.

#### Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal Action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

#### Intergovernmental Consultation

For the reason set forth in the final rule related notice to 7 CFR part 3015, subpart V, 48 FR 29115, June 24, 1983, this program/activity is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

#### Programs Affected

This change affects a program listed in the catalog of Federal Domestic Assistance under 10.410, Very Low and Low Income Housing Loans.

#### List of Subjects in 7 CFR Part 1924

Housing standards, Low and moderate income housing, Rural areas.

#### Discussion

On November 28, 1990, the President signed the Cranston-Gonzalez National Affordable Housing Act. This act provided for revision to FmHA's site approval instructions, mandating that: "The Secretary may not refuse to make, insure, or guarantee a loan that otherwise meets the requirements under this section solely on the basis that the housing involved is located in an area that is excessively rural in character or excessively remote."

This revision removes language regarding random development of sites in open country, and includes language that allows approval of such sites.

The substance of the revisions will have a significant impact on the program. For this reason, this action is set forth as a proposed rule.

Therefore, as proposed, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

#### PART 1924—CONSTRUCTION AND REPAIR

1. The authority citation for part 1924 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

#### Subpart C—Planning and Performing Site Development Work

2. Section 1924.107 is amended by revising the introductory text of paragraph (e), paragraph (e)(1)(iii), and adding paragraph (e)(1)(iv) to read as follows:

##### § 1924.107 Location.

\* \* \* \* \*

(e) A scattered site must be planned and developed under this subpart, subpart A of part 1944, and subpart G of part 1940, with particular emphasis on location as specified in § 1940.304. A scattered site must comply with all of the following:

(1) \* \* \*

(iii) May be a site located within a subdivision which has HUD or VA acceptance that meets the requirements of § 1924.119(c) of this subpart, or

(iv) May be a site located in open country or a remote rural area.

\* \* \* \* \*

Dated: April 28, 1991.

La Verne Ausman,  
Administrator, Farmers Home  
Administration.

[FR Doc. 91-14666 Filed 6-19-91; 8:45 am]

BILLING CODE 3410-07-M

#### 7 CFR Part 1980

#### Guaranteed Loans

**AGENCY:** Farmers Home Administration, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Farmers Home Administration (FmHA) proposes to amend its regulation to allow Community and Business Programs guaranteed loans where guarantee authority is unavailable when the application is filed to be placed in a pending status rather than disapproved.

This action will enhance the application process and expand and clarify the requirements for eligible lenders for guaranteed loans due to amendments in the law and to allow additional lenders to participate in the guaranteed loan programs. The intended effect of the action will be to promote additional development in rural areas.

**DATES:** Comments must be received on or before July 22, 1991.

**ADDRESSES:** Submit written comments in duplicate to the Chief, Regulations Analysis and Control Branch, Farmers Home Administration, U.S. Department of Agriculture, room 6348, South Agriculture Building, Washington, DC 20250. All written comments will be available for public inspection during regular work hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Beverly I. Craver, Business and Industry Loan Specialist, Farmers Home Administration, USDA, Room 6327, 14th and Independence Avenue SW., Washington, DC 20250, Telephone (202) 475-3805.

#### SUPPLEMENTARY INFORMATION:

##### Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291 and has been determined to be non-major. The annual effect on the economy is less than \$100 million and there will be no significant increase in costs or prices for consumers, individual industries, organizations, governmental agencies or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.



### Intergovernmental Review

The programs impacted by this action are listed in the Catalog of Federal Domestic Assistance under numbers 10.422, Business and Industrial Loans; 10.423, Community Facilities Loans; and 10.418, Water and Waste Disposal Systems for Rural Communities Loans and are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, 48 FR 29112, June 24, 1983). FmHA conducts intergovernmental consultation in the manner delineated in FmHA Instruction 1901-H.

### Environmental Impact Statement

The action has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." FmHA has determined that this proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

### Background

The current regulation for the FmHA guaranteed loan programs requires that all guaranteed loan applications must be approved or disapproved not later than 60 days after receipt of a completed application. Public Law 101-624 requires loans that would otherwise be disapproved due to lack of funds available to make the loan will be placed in a pending status. When funds become available the pending applications will be either approved or disapproved within 60 days.

The current FmHA regulation allows insurance companies to be eligible lenders if they are regulated by the National Association of Insurance Commissioners. Currently this Association does not have regulatory control over insurance companies. The regulation is being revised to read that insurance companies must be regulated by a State or national insurance regulatory agency.

The current FmHA regulation allows credit unions to participate as eligible lenders only for guaranteed Farmer Program loans. The regulation is being revised to extend lender eligibility criteria for all guaranteed loans to include credit unions if they are subject to credit examination and supervision

by either the National Credit Union Administration or a State agency.

In addition, the titles of two forms to be used with Disaster Assistance for Rural Business Enterprise (DARBE) guaranteed loans are being corrected in an administrative provision in the current regulations.

### Lists of Subjects in 7 CFR Part 1980

Loan programs—Agriculture, Business and industry, Community facilities, and Disaster assistance

Accordingly, chapter XVIII, title 7, of the Code of Federal Regulations is proposed to be amended as follows:

### PART 1980—GENERAL

1. The authority citation for part 1980 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 7 U.S.C. 301; 7 CFR 2.23 and 2.70.

### Subpart A—General

2. Section 1980.13 is amended by revising the introductory text of paragraph (b) to read as follows:

#### § 1980.13 Eligible lenders.

\* \* \* \* \*

(b) *An eligible lender is:* Any Federal or State chartered bank, Farm Credit Bank, other Farm Credit System institution with direct lending authority, Bank for Cooperatives, Savings and Loan Association, Building and Loan Association, mortgage company that is a part of a bank-holding company, or an insurance company that is regulated by a State or national insurance regulatory agency. These entities must be subject to credit examination and supervision by either an agency of the United States or a State. Eligible lenders may also include credit unions that are subject to credit examination and supervision by either the National Credit Union Administration or a State agency. For Farmer Program loans an agricultural credit corporation which is a subsidiary of any Federal or State chartered bank is an eligible lender. Only those lenders listed in this paragraph are eligible to make and service guaranteed loans, and such lenders must be in good standing with their licensing authority and have met licensing, loan making, loan servicing, and other requirements of the State in which the collateral will be located and the loan making and/or loan servicing office requirements in paragraph (b)(3) of this section. A lender must have the capability to adequately service the loan for which a guarantee is requested.

\* \* \* \* \*

3. Section 1980.47 is amended by revising the introductory paragraph and adding paragraph (d) as follows:

#### § 1980.47 Time frame for processing applications for loan guarantees.

All guaranteed loan applications must be approved or disapproved, and the lender notified in writing, not later than 60 days after receipt of a completed application, except as noted in paragraph (d) of this section.

\* \* \* \* \*

(d) Applications for Community and Business Programs guaranteed loans that would otherwise be disapproved due to the lack of guarantee authority available to make the loan will now be placed in a pending status. The applications will remain in a pending status until guarantee authority becomes available. Within sixty days after funds become available, Farmers Home Administration will notify the applicants of the approval or disapproval of the loan.

4. Section 1980.83(b) is amended by revising the entries for FmHA Form No. 1980-71 and 1980-72 to read as follows:

#### § 1980.83 FmHA Forms.

\* \* \* \* \*

(b) \* \* \*

FmHA Form No.	Title of form	Purpose and code
1980-71 ....	Lender's Agreement—Disaster Assistance for Rural Business Enterprises (DARBE) Guaranteed Loans.	Used to establish contract between FmHA and lender on a DARBE guaranteed loan. (2)
1980-72 ....	Loan Note Guarantee—Disaster Assistance for Rural Business Enterprises (DARBE) Guaranteed Loans.	Used to express terms of the guarantee of a DARBE guaranteed loan. (1)
.	.	.

Dated: May 1, 1991.

La Verne Ausman,  
Administrator, Farmers Home Administration.

[FR Doc. 91-14667 Filed 6-19-91; 8:45 am]

BILLING CODE 3410-07-M



**ENVIRONMENTAL PROTECTION  
AGENCY****40 CFR Part 281****(FRL-3923-7)****New Hampshire; Approval of State  
Underground Storage Tank Program***Correction*

Document 91-9368, beginning on page 16276, in the issue of Monday, April 22, 1991, was published in the "Rules and Regulations" section of the issue. It should have appeared in the "Proposed Rules" section.

BILLING CODE 1505-01-D

**DEPARTMENT OF HEALTH AND  
HUMAN SERVICES****Health Care Financing Administration****42 CFR Parts 405 and 473****(BPD-694-P)****RIN 0938-AE93****Medicare Program; Aggregation of  
Medicare Claims and Administrative  
Appeals and Judicial Review**

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Proposed rule.

**SUMMARY:** Under section 1869 of the Social Security Act, Medicare beneficiaries and, under certain circumstances, providers, physicians and other entities furnishing health care services, may appeal adverse determinations regarding certain claims for benefits payable under Part A and Part B of Medicare. For administrative appeals at the carrier (or intermediary, where appropriate) hearing level or administrative law judge (ALJ) level and for any subsequent judicial review, the amount remaining in dispute must meet or exceed the threshold amounts set by the statute. Section 1869 permits claims to be aggregated to reach the ALJ and judicial review threshold amounts. This proposed rule would establish in Medicare regulations a uniform policy on aggregation of Medicare claims to obtain the right to a carrier (or, if appropriate, intermediary) hearing, an ALJ hearing and judicial review. The proposed rule would also apply to appeals of determinations made by Peer Review Organizations (PROs), health maintenance organizations (HMOs) and competitive medical plans (CMPs).

**DATES:** Comments will be considered if we receive them at the appropriate

address, as provided below, no later than 5 p.m. on August 19, 1991.

**ADDRESSES:** Mail comments to the following address:

Health Care Financing Administration,  
Department of Health and Human  
Services, Attention: BPD-694-P, P.O.  
Box 26676, Baltimore, Maryland 21207

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey  
Building, 200 Independence Ave., SW.,  
Washington, DC, or  
Room 132, East High Rise Building, 6325  
Security Boulevard, Baltimore,  
Maryland.

Due to staffing and resource limitations, we cannot accept facsimile (FAX) copies of comments.

In commenting, please refer to file code BPD-694-P. Comments received timely will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202-245-7890).

**FOR FURTHER INFORMATION CONTACT:**  
Paul Olenick, (301) 966-4472.

**SUPPLEMENTARY INFORMATION:****Background***Statutory Basis*

Section 1869 of the Social Security Act (the Act) grants Medicare beneficiaries who are dissatisfied with certain Medicare determinations the right to a hearing before an administrative law judge (ALJ) and the right to judicial review. The Social Security Administration (SSA) makes determinations concerning entitlement to Medicare. Other determinations concerning payment are made initially by Medicare contractors. Fiscal intermediaries make most Part A and some Part B determinations; carriers make most Part B determinations. Our regulations generally address appeals of claims arising under Part A at 42 CFR part 405, subpart G and appeals of claims under Part B at 42 CFR part 405, subpart H.

PROs also make certain types of Part A and Part B determinations. Section 1155 of the Act establishes beneficiary rights to hearings and judicial review of certain Medicare issues (mostly inpatient hospital service denials) adjudicated initially by PROs. Our regulations address this subject at 42 CFR part 473, subpart B.

For enrollees of HMOs and CMPs, the HMO or CMP is responsible for making the initial determinations. Section 1876(c)(5)(B) of the Act establishes beneficiary rights to ALJ hearings and judicial review of certain Part A and Part B claims submitted by or on behalf of enrollees of HMOs or CMPs. Our regulations address this subject at 42 CFR 417.600 to 417.638.

For the following discussion, the term "provider" refers to a hospital, skilled nursing facility, home health agency, hospice program or comprehensive outpatient rehabilitation facility, that has in effect an agreement to participate in Medicare. See section 1861(u) of the Act and 42 CFR 400.202.

The term "supplier" is defined in § 400.202 and means a physician or other practitioner, or an entity other than a provider, who furnishes health care services under Medicare. Although "supplier" encompasses physicians, our usual phraseology is "physician or supplier".

Under section 1879(d) of the Act, a provider, or a physician or supplier that has taken assignment of a claim, may have the same appeal rights as that of an individual beneficiary under certain limited circumstances when the issue in dispute involves medical necessity, custodial care, or home health denials involving the failure to meet homebound or intermittent skilled nursing care requirements.

Under section 1842(1) of the Act, a physician who does not accept assignment must refund to the beneficiary any amounts collected for services found to be not reasonable and necessary. A refund is not required if the physician did not know and could not reasonably have been expected to know that Medicare would not pay for the services, or if the beneficiary was appropriately informed in advance that Medicare would not pay for the services and agreed to pay for them. Our regulations at 42 CFR 411.408 provide that if payment is denied for nonassignment-related claims because the services are found to be not reasonable and necessary, the physician who does not accept assignment will have the same appeal rights as the physician who submits claims on an assignment-related basis, as detailed in subpart H of part 405 and subpart B of part 473. (See 55 FR 24561, June 18, 1990.)

*Omnibus Budget Reconciliation Act of 1986*

Before the enactment of the Omnibus Budget Reconciliation Act of 1986 (OBRA '86) (Pub. L. 99-509), section 1869 of the Act provided for ALJ hearings and



judicial review of claims for entitlement to Medicare Parts A and B, and of disputes over claims for benefits under Part A. There was no provision for ALJ hearings or judicial review for disputes over the amount of Part B benefits, except under section 1876 of the Act pertaining to HMO and CMP denials, and under certain PRO matters as authorized by section 1155 of the Act. Instead, as specified in section 1842(b)(3)(C) of the Act and 42 CFR part 405, subpart H, Medicare carriers (or, if appropriate, intermediaries) performed initial determinations and reviews of claims for Part B benefits and provided for hearings before a carrier (or, if appropriate, intermediary) hearing officer when the amount remaining in controversy was \$100 or more.

Section 9341 of OBRA '86 amended Section 1869 of the Act to permit hearings before ALJs and judicial review of claims for benefits under Part B.

OBRA '86 also provided that, for a Part B ALJ hearing, the amount in controversy must be at least \$500 and, for judicial review, the amount in controversy must be at least \$1000. It did not change the existing amount in controversy requirements (\$100 and \$1000, respectively, under the Medicare Part A provisions and \$200 and \$2000, respectively, under the PRO provisions) for ALJ hearings and judicial review.

OBRA '86 further provided that "in determining the amount in controversy, the Secretary, by regulations, shall permit claims to be aggregated if the claims involve the delivery of similar or related services to the same individual or involve common issues of law and fact arising from services furnished to two or more individuals." This provision applies to both Part A and Part B claims.

The legislative history that accompanied OBRA '86 did not indicate whether the intent of the aggregation provision was to expand or restrict appeal rights. Nor did it indicate whether the types of aggregation then permitted for Part A ALJ hearings and judicial review were also appropriate for Part B appeals.

#### *The Omnibus Budget Reconciliation Act of 1990*

The Omnibus Budget Reconciliation Act of 1990 (OBRA '90) (Pub. L. 101-508) provided additional legislative direction regarding the aggregation of Medicare claims. Section 4113 of OBRA '90 states the following:

"The Secretary of Health and Human Services shall carry out a study of the effects of permitting the aggregation of claims that involve common issues of law and fact furnished in the same carrier area to two or more individuals by two or more physicians

within the same 12-month period for purposes of appeals provided for under section 1869(b)(2). Such study shall be conducted in at least four carrier areas. The Secretary shall report on the results of such study and any recommendations to the Committee on Finance of the Senate and the Committees on Energy and Commerce and Ways and Means of the House of Representatives by December 31, 1992."

#### *Aggregation Before OBRA '86*

Before OBRA '86 the statute was silent on the issue of aggregating claims to meet the threshold amounts to establish a right to Part A or Part B hearings or judicial review. We had, however, provided for beneficiaries to aggregate certain Part A claims in our regulations at 42 CFR 405.740 and 405.745. The amount in controversy for a Part A hearing is so low (\$100) that a one-day hospital stay or short series of home health treatments was sufficient for almost every beneficiary to meet the threshold amount. Our regulations at 42 CFR 405.741 provide that the presiding officer at the hearing (i.e., the ALJ) determines whether the \$100 threshold is met. The current regulations do not allow a provider to aggregate claims involving more than one beneficiary.

We had also in § 405.820(b) provided for the aggregation of Part B claims to reach the amount in controversy required for a hearing before a carrier hearing officer. This regulation permits a beneficiary to aggregate any and all Part B claims for treatment provided or medical equipment or supplies (or both) furnished to him or her within certain time periods. A physician or supplier may aggregate any and all claims accepted on an assignment-related basis for services or supplies he or she provided to one or more beneficiaries. Each such claim must be at the proper level of appeal and the request for subsequent appeal of each such claim must be timely filed.

#### *Status of Regulations*

To implement section 9341 of OBRA '86, HCFA and SSA (the agency responsible for conducting ALJ hearings) published a joint notice (52 FR 20023, June 1, 1988) stating that ALJ hearings under Part B would be governed to the extent possible by existing SSA regulations at 20 CFR part 404, Subparts J and R, and existing Part A regulations at 42 CFR part 405, subpart G. The notice further provided that "ALJ hearings will be held for Medicare Part B claims that meet the amount in controversy requirement established by section 9341 of OBRA '86." Manual instructions implementing the new appeal provisions directed the carriers to continue using the existing Part B

regulation governing aggregation for carrier hearings, as these rules differed from the OBRA '86 provisions, and the statutory provisions required implementation by regulation.

#### *Proposed Revisions*

##### *Scope of Revisions*

We are developing a proposed rule that, among other things, would implement the various appeals provisions contained in section 9341 of OBRA '86 and the congressional intent enunciated in section 4113 of OBRA '90. This has proven to be a time-consuming process because of the complexities of the provisions and the statute's lack of specificity regarding aggregation of claims by two or more claimants. In view of the current amount of interest in our policy on aggregating claims to establish the amount in controversy requirements for an ALJ hearing and judicial review, we are issuing this proposal apart from the other appeal provisions. This proposal would apply to determining the amount in controversy thresholds for both Part A and Part B ALJ hearings under sections 1869, 1876, 1879, 1155 and 1842(1) of the Act, to Part B carrier appeals, and to judicial review under Parts A and B. We would apply to Part B ALJ hearings our consistent policy that determinations of the amount in controversy are made by the ALJs.

##### *Proposal*

Review of congressional reports that accompanied OBRA '86 and precursor bills discloses no discussion of the basis for the statutory change addressing aggregation of claims. The specific statutory language directs the Secretary to issue regulations for aggregation of claims under the circumstances specified in section 1869(b)(2) of the Act to reach threshold amounts in controversy for ALJ hearings and judicial review. We would rescind our current regulations governing aggregation for carrier hearings under Part B (§ 405.820(b)(2)) because they conflict with the literal reading of the OBRA '86 amendment. We believe that it is appropriate to have a uniform aggregation policy for all levels of administrative appeal. We would use the same aggregation policy for all levels of review because it would be administratively cumbersome and confusing to claimants to use different policies. The current regulations governing aggregation under Part A (§§ 405.740(c) through 405.740(f)) and governing determination of amount in controversy (§ 405.741) need only minor



amendment to satisfy the OBRA '86 requirements.

The amendment to section 1869 of the Act is written in the passive voice and does not state who may aggregate claims for appeal. However, all of section 1869 is written in terms of individual beneficiary rights of appeal, without reference to rights of appeal by providers, physicians, or suppliers. By regulation, the Secretary has provided that, in certain circumstances, providers and physicians and suppliers who accept assignment may pursue appeals. This right to appeal is derivative of the beneficiary's rights. Except for the appeal provisions concerning limitation of liability, refund requirements, and certain PRO and HMO/CMP appeals, the statute is otherwise silent on the rights of providers, physicians and suppliers to appeal individual benefit determinations. Accordingly, in construing the aggregation amendment, we first consider its application to beneficiaries, and then consider its effect on providers, physicians and suppliers.

The first clause of the amendment applies to claims that "involve the delivery of similar or related services to the same individual." It describes the circumstances under which an individual claimant has a right to combine claims for services furnished or received. The second clause, " \* \* \* claims involving common issues of law and fact arising from services furnished to two or more individuals", describes the rights of providers, physicians and suppliers to aggregate claims for services furnished to two or more beneficiaries, rights that derive from the appeal rights of the involved beneficiaries.

Providers and physicians and suppliers who accept assignment (and, in certain cases, physicians who do not accept assignment) would be able to aggregate claims for beneficiaries to whom they provided services, but would not be permitted to aggregate claims with other providers, physicians, or suppliers. This interpretation is consistent with the focus of the statute on individual beneficiary rights. It further avoids the inadvertent creation of direct or indirect group appeal rights for beneficiaries, providers, physicians and suppliers not contemplated by Congress.

The plain language of section 1869 of the Act addresses appeal rights of individual beneficiaries or other individual claimants whose rights are derived from those individual beneficiaries; it does not address the rights of groups of beneficiaries or other claimants. The Secretary has interpreted

this provision on an individual basis since the inception of the Medicare program.

We have considered, but have decided against, permitting aggregation by groups of claimants because, in our view the OBRA '86 aggregation provision is not a basis for establishing group appeals. Section 1869 of the Act in all respects applies to claims filed by "individuals"; that is, by beneficiaries. Because the OBRA '86 aggregation provision amended section 1869 of the Act, we believe that only individual appeals are affected. Therefore, only individual claimants may aggregate their claims to reach the jurisdictional minimums required for an ALJ hearing. Had Congress intended to create a sweeping change in Medicare's Part A and Part B appeals processes by permitting for the first time group appeals for claimants, we believe it would have amended section 1869 of the Act to enunciate such a policy change clearly. Further, the fact that Congress included in the law a mechanism for individuals to aggregate claims evinces its intent to retain the concept of individual appeals. Allowing several different claimants to group their claims to meet a relatively low jurisdictional minimum renders the requirement for a minimum amount in controversy meaningless and leads to a potential result whereby hundreds and even thousands of claimants could effectively unite to appeal denials of trivial amounts.

We believe that, in the absence of specific legislative history guidance, the OBRA '86 aggregation rule should apply to physicians and suppliers accepting assignment of individual claims. Because it has been our longstanding policy that assignees of Medicare Part B claims generally have the same appeal rights as beneficiaries, we see no reason why this aggregation rule should not also apply to these individuals.

Moreover, we consider permitting group appeals for claimants premature in light of the OBRA '90 provision in which Congress directed HHS to conduct a pilot study to investigate the effect of permitting aggregation by two or more claimants when physician services are furnished. We believe this action by Congress confirms, for the present, that Congress has not required the Secretary to provide for aggregation of claims by two or more claimants. Moreover, by requiring this study, Congress has implicitly accepted the position for the time being that individual claimants alone may aggregate their claims.

To aggregate claims under Parts A and B, we propose the following operational rules:

1. The request for a carrier hearing (or, if appropriate, intermediary hearing) or ALJ hearing must specifically identify the claims that comprise the total amount in controversy. The claimant must identify each claim by: Type of item or service, date of service, person or entity that furnished the item or service and the amount being contested. The claimant must also identify the basis for the aggregation; i.e., describe way the claims are either "similar or related" or involve "common issues of law and fact." For example, a beneficiary breaks a hip and is provided with several treatments by a physical therapist over a period of months. The beneficiary submits claims to the carrier for these treatments and they are denied or reduced. In addition to identifying the type of service, the dates of service, the practitioner's name, and the amount contested, the beneficiary should also include in his or her request for carrier or ALJ hearing a statement that the claims are "similar or related" because they arise from the same continuous course of treatment. In another example, several different beneficiaries are provided with routine chest x-rays by the same radiologist under similar circumstances. All claims submitted by the radiologist are denied by the carrier on the same statutory basis. In his request for carrier or ALJ hearing, the radiologist should state, among other things, that aggregation of the claims is being sought because they involve "common issues of law and fact arising from services furnished to two or more individuals"; i.e., the denials for each claim are on the same statutory basis and the same factual issue for each claim is presented for appeal.

2. At each review level, the filing time limit must be met for all claims to be aggregated. For example, the claims involved in two or more carrier hearing officer decisions, one received on June 5 and one received on July 10, may be aggregated by a claimant in a single request for an ALJ hearing only if the hearing is requested not later than August 4 since the hearing must be requested within 60 days after receipt of the first carrier hearing decision.

3. For an ALJ hearing under Part A (or Part B, for certain PRO or HMO/CMP matters), the claims first must have been reconsidered by the appropriate entity;

4. For a carrier (or, as appropriate, intermediary) fair hearing under Part B, the claims must have been reviewed by the carrier or intermediary, except when an initial payment request has not been



acted upon with reasonable promptness as provided by § 405.801(a);

5. For an ALJ hearing under Part B, except for certain PRO or HMO/CMP matters, the claims must have a carrier (or, as appropriate, intermediary) hearing officer decision;

6. Unless provided elsewhere, a claimant may not combine Part A and Part B claims together to meet the requisite amount in controversy for a carrier (or, as appropriate, intermediary) hearing, ALJ hearing or judicial review.

We would amend § 405.740 to reflect the aggregation provisions of section 1869(b)(2) of the Act for providers and beneficiaries for Part A ALJ hearings under title XVIII. Except for the amounts in controversy threshold for ALJ hearings, the additional provisions of the revised § 405.740 would be approximately the same as those for Part B in proposed § 405.820(b)(2).

As noted earlier, we would rescind our current regulations at 42 CFR 405.820(b)(2), which allow an individual Part B claimant to combine any and all claims from different physicians and suppliers, and a physician or supplier-claimant to combine any and all claims accepted on an assignment-related basis from different beneficiaries. Based on the amended statute, as discussed above, we would permit aggregation only for those claims involving "similar or related services to the same individual" or for those claims involving "common issues of law and fact arising from services furnished to two or more individuals." The phrase "common issues of law and fact" requires commonality of both the factual basis for the denial and the appealable issue presented by the denial. Accordingly, we interpret this phrase to mean that a provider, or a physician or supplier who accepts claims on an assignment-related basis, may aggregate only those claims in which that provider, physician or supplier furnishes the same item or service to two or more individuals and for which adverse determinations were made on the same statutory basis, and the appeal is made on the same basis.

We are proposing to revise 42 CFR 405.820(b)(2) to allow Part B claims to be aggregated to meet amount in controversy requirements for carrier appeals, ALJ hearings and judicial review as follows:

1. A beneficiary may aggregate claims from the same or different physician(s) or supplier(s) if the claims involve the delivery of similar or related services.

2. A single physician or supplier of services may aggregate assigned claims from the same beneficiary if the claims involve the delivery of similar or related services, or may aggregate assigned

claims from several different beneficiaries if common issues of law and fact are involved; i.e., the same service is furnished to two or more beneficiaries and the adverse determinations were made on the same grounds.

3. We are also proposing to extend these aggregation rules to appeals involving section 1842(1) of the Act, which concerns refunds to beneficiaries for medically unnecessary services from physicians not accepting assignment. We would permit a single physician to (a) aggregate unassigned claims from the same beneficiary if the claims involve the delivery of similar or related services to the same individual or (b) aggregate unassigned claims from several beneficiaries if common issues of law and fact are involved.

In §§ 405.701, Basis and Scope, and 405.802, Definitions, we would add definitions of "delivery of similar or related services," "services," "common issues of law and fact," "common issues of law," "common issues of fact," and "mutually exclusive bases for appeal." We would also revise the title of § 405.701 to include definitions and we would rearrange the current contents of § 405.802 into alphabetical order.

"Delivery of similar or related services" to the same individual would refer to services that are—

a. In the case of part A, similar or related by virtue of having been provided under the same diagnosis related group (DRG) code, or by virtue of such similarity or identity that they are identically coded, or by virtue of having been provided to a single beneficiary during the same continuous course of treatment or continuous period of medical care; or

b. In the case of part B, similar or related by virtue of such similarity or identity that they have the same procedural terminology and code (identical CPT code), or by virtue of having been provided to a single beneficiary during the same continuous course of treatment or continuous period of medical care;

"Services" would refer to any medical service, test, course of treatment, period of care, item, device, supply, or equipment that may be covered under part A or part B of Medicare, or both.

"Common issues of law and fact" arising from services furnished to two or more individuals presumes the essential similarity of the issues presented in both of two contexts: law and fact.

"Common issues of law" occur when two or more claims have been denied on the same statutory basis and present the same issue for appeal; e.g., the issue relates to denials or reductions of

program payment under the identical statutory exclusion and the basis for the appeal is that payment should be made because the statutory exclusion was improperly applied and the services are actually covered by the program under the same circumstances in all the aggregated cases.

We believe that common issues of law must arise from the same statutory provision and must present the same issue concerning application of that provision for review. For example, even though two claims for the same service may be denied under section 1862(a)(1)(A) of the Act, they would not share the necessary "common issues of law" if the first claim was denied because that service is considered experimental for the first patient's condition, but the second claim was denied as not required by the second individual's medical condition.

Each statutory basis for denial or each basis for appeal is mutually exclusive from each and every other statutory basis for denial or appeal. Aggregation of claims on the basis of more than one statutory basis for denial or appeal would not be permitted. Mutually exclusive bases for appeal include but are not limited to:

Erroneous application by a Medicare contractor of a specific statutory basis for denial; program payment should have been made.

Erroneous application by a Medicare contractor of a specific statutory basis for denial; program payment should not have been made, but the liability of the provider, physician, or supplier is affected because the provider, physician, or supplier did not know or have reason to know that the service was not covered.

Whether proper and timely notice of noncoverage was given to the beneficiary. Erroneous application of an applicable coinsurance.

Amount of an applicable deductible. The number of days of the 60-day lifetime reserve utilized for inpatient hospital coverage.

Whether the charges for items and services furnished under Part B are reasonable.

"Common issues of fact" occur when two or more claims arise from the same face pattern; i.e., the issues relate to "similar or related services," as defined here; the issues would relate to two or more beneficiaries in an identical manner ("common issues of fact" may arise when medical necessity determinations relating to two or more beneficiaries result in substantially similar, but not necessarily exact, medical findings); and the nature of the denials, and their effects, are the same (e.g., denials or program payment resulting in the provider, physician, or



supplier being held fully liable for the unpaid amounts).

Because determinations of the amount in controversy are made by the appropriate hearing officer, ALJ or court, we would revise § 405.741, which concerns determining the amount in controversy, and add a provision to § 405.820(b). We would provide that the carrier or intermediary hearing officer, ALJ, or court, as appropriate, determines whether the amount in controversy meets the required threshold level. We would further provide that the carrier or intermediary hearing officer, ALJ, or reviewing court, as appropriate, will also make the determination as to what constitutes "similar or related services" and "common issues of law and fact."

We emphasize that the purpose of these regulations is to provide criteria for aggregation of claims in order to meet the amount in controversy requirements (i.e., the jurisdictional threshold) for appealing Medicare claims. These rules are not meant to address procedures (or alter existing provisions) concerning the conduct of hearings once the required amount in controversy is established or to address the discretion of the presiding officer to join claims in a single hearing for administrative purposes.

The level of review between the ALJ hearing and judicial review levels is known as Appeals Council review. If dissatisfied with the ALJ hearing decision or dismissal, a party to the hearing may request that the Appeals Council review that action or the Appeals Council may initiate such review on its own motion. The Appeals Council may deny or dismiss the request for review or grant the request. If the Appeals Council grants the request for review, it may reverse, affirm or modify a decision or dismissal made by an ALJ, or remand the case to an ALJ for further action. Because the Appeals Council has the authority to review an ALJ's decision or dismissal, it may also address whether or not an ALJ properly applied the operating rules for aggregating claims, as set forth in these regulations. For example, in a case in which an ALJ fails to aggregate claims as required by these regulations and dismisses a request for hearing due to an insufficient amount in controversy, the Appeals Council may find that aggregation was warranted and remand the case to an ALJ for a hearing. However, neither HCFA contractors, ALJs nor the Appeals Council are required to initiate aggregation if it has not been requested by a claimant.

Section 405.832 of the regulations gives the hearing officer the authority to dismiss a claimant's hearing request for

various reasons, one of which (§ 405.832(d)) is the failure to meet the threshold \$100 amount in controversy requirement. We would add to this provision the right of a claimant to appeal such dismissal to an ALJ where the underlying basis of the dismissal is the hearing officer's determination that the claims at issue may not be aggregated because they do not involve "delivery of similar or related services" or "common issues of law and fact." Further, we are providing that the ALJ must remand the case to the hearing officer when the ALJ finds that the hearing officer wrongfully dismissed the appeal request because of failure to meet the amount in controversy requirements.

Sections 417.630 and 473.44 of the existing regulations specify procedures for determining amounts in controversy for beneficiary appeals of matters arising under sections 1876 and 1155 of the Act. Section 417.630, by cross-reference, applies the rules of §§ 405.740 and 405.820(b) for determining the amount in controversy. Section 473.44, by cross-reference, applies the rules of § 405.740 for determining the amount in controversy. We would retain these cross-references, making the proposed rules for aggregating claims applicable to claims under sections 1876 and 1155. We would further amend § 473.44 to include a cross-reference to § 405.820(b) to address claims involving Part B services. (Section 417.630 already addresses Part B services.)

We are also proposing to make some technical changes to update cross references.

#### Regulatory Impact Statement

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any proposed rule that meets one of the E.O. 12291 criteria for a "major rule"; that is, that will be likely to result in—

- An annual effect on the economy of \$100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a proposed rule would not have a significant

economic impact on a substantial number of small entities. For purposes of the RFA, all beneficiaries, physicians, providers, and suppliers are treated as small entities.

Section 1869 of the Act provides that, for claims arising under Part A, a beneficiary may request a hearing before an ALJ if he or she is dissatisfied with a determination by the intermediary if the amount of Part A benefits in controversy is at least \$100. Under our current rules at § 405.740, a beneficiary may aggregate certain Part A claims to reach the threshold amount.

For claims arising under Part B, section 1842(b)(3)(C) of the Act provides that a beneficiary dissatisfied with the initial review determination may request a fair hearing before a carrier hearing officer if the amount in controversy is at least \$100. This provision was not amended by section 9341 of OBRA '86. It remains in the statute. In determining the amount in controversy for carrier hearings in the past, we have used the following procedures found in 42 CFR 405.820(b) and section 12015H of the Medicare Carriers Manual:

1. A beneficiary may combine any and all claims from different physicians and/or suppliers; and

2. A physician or supplier may combine any and all assigned claims from different beneficiaries.

Effective January 1, 1987, section 9341 of OBRA '86 amended section 1869(b) of the Act to allow beneficiaries a right to an ALJ hearing if, among other things, the amount of part B benefits in controversy is \$500 or more.

Other provisions of the statute, or the Secretary's regulations, also permit providers, physicians or suppliers to exercise a beneficiary's hearing rights in certain limited circumstances.

Section 1869 as amended also directed the Secretary, when determining the amount in controversy for either part A or part B ALJ hearings, to allow two or more claims to be aggregated if the claims involve the delivery of similar or related services to the same individual or involve common issues of law and fact arising from services furnished to two or more individuals.

For the reporting period October 1989 through April 1990 total payments awarded to beneficiaries, suppliers, and providers as a result of ALJ hearings and intermediary and carrier appeals were less than \$20 million (Bureau of Program Operations, Health Care Financing Administration). We do not believe that the provisions in this proposed rule would alter that amount significantly. Therefore, we do not believe that this proposed rule would



meet the \$100 million threshold criterion of E.O. 12291. We also do not believe that the other threshold criteria of E.O. 12291 and the RFA will be met. Therefore, we have determined, and the Secretary certifies, that a regulatory impact analysis under E.O. 12291 and a regulatory flexibility analysis under the RFA are not required.

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a proposed rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

We are not preparing a rural impact statement because we have determined, and the Secretary certifies, that this proposed rule would not have a significant economic impact on the operations of a substantial number of small rural hospitals.

#### Paperwork Burden

These changes do not impose paperwork collection requirements. Consequently, they need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3801 *et seq.*).

#### Response to Comments

Because of the large number of items of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments that we receive by the date and time specified in the "Dates" section of this preamble, and, if we decide to proceed with a final rule, we will respond to the comments in the preamble of that rule.

#### List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Health facilities, Health maintenance organizations (HMO), Health professions, Kidney diseases, Laboratories, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

Chapter IV, title 42 of the Code of Federal Regulations would be amended as follows:

### PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

A. Part 405, subpart G is amended to read as follows:

#### Subpart G—Reconsiderations and Appeals Under Medicare Part A

1. The authority citation for subpart G is revised to read as follows:

Authority: Secs. 1102, 1154, 1155, 1869(b), 1871, 1872 and 1879 of the Social Security Act (42 U.S.C. 1302, 1320c, 1320c-3, 1320c-4, 1395ff(b), 1395hh, 1395ii and 1395pp).

2. In § 405.701, the section heading is revised and a new paragraph (d) is added to read as follows:

#### § 405.701 Basis, purpose and definitions.

\* \* \* \* \*

(d) *Definitions.* As used in subpart G, the term—

*Common issues of \* \* \* fact*, in the phrase "common issues of law and fact," occurs when two or more claims arise from the same fact pattern; that is, the issues relate to the delivery of similar or related services, as defined in this paragraph; the issues relate to two or more beneficiaries in an identical manner; and the nature of the denials, and their effects, are the same (e.g., denials of program payment resulting in the provider, physician, or supplier being held fully liable for the unpaid amounts).

*Common issues of law*, in the phrase "common issues of law and fact," occur when two or more claims have been denied on the same statutory basis and present the same issue for appeal; e.g., the issue relates to denials of program payment under the identical statutory exclusion; the basis for the appeal is that payment should be made because that statutory exclusion was improperly applied; and the service is actually covered by the program under the same circumstances in all the aggregated cases.

*Common issues of law and fact* arising from services furnished to two or more individuals refers to the essential similarity of the issues presented in both of two contexts: law and fact.

*Delivery of similar or related services* means services that are—

(1) In the case of Part A, similar or related by virtue of having been provided under the same diagnosis related group (DRG) code or International Classification of Diseases, Clinical Modification, 9th Edition (ICD-9-CM) code; or by virtue of having been provided to a single beneficiary during the same continuous course of treatment or continuous period of medical care; or

(ii) In the case of Part B, similar or related by virtue of such similarity or identity that they have the same procedural terminology and code (identical Common Procedure Terminology (CPT) or HCFA Common Procedure Coding System (HCPCS) code), or by virtue of having been provided to a single beneficiary during the same continuous course of treatment or continuous period of medical care.

*Mutually exclusive bases for appeal* include but are not limited to:

(i) Erroneous application by a Medicare contractor of a specific statutory basis for denial; program payment should have been made.

(ii) Erroneous application by a Medicare contractor of a specific statutory basis for denial; program payment should not have been made, but the liability of the provider, physician, or supplier is affected because the provider, physician, or supplier did not know or have reason to know that the service was noncovered.

(iii) Whether proper and timely notice of noncoverage was given to the beneficiary.

(iv) Erroneous application of an applicable coinsurance.

(v) Amount of an applicable deductible.

(vi) The number of days of the 60-day lifetime reserve utilized for inpatient hospital services.

*Services* is defined in § 400.202 of this chapter.

3. In § 405.740, the introductory text and paragraphs (a) and (h) are revised and new paragraphs (i) (j) are added to read as follows:

#### § 405.740 Principles for determining the amount in controversy.

The following principles are applicable for purposes of determining the amount in controversy:

(a) The amount in controversy is computed as the actual amount charged the individual for the items and services in question less deductible and coinsurance amounts applicable in the particular case.

\* \* \* \* \*

(h) Notwithstanding the provisions of paragraph (a) of this section, when payment is made for certain excluded services pursuant to § 411.400 of this chapter, or the liability of the individual for those services is limited pursuant to § 411.402 of this chapter, the amount in controversy is computed as the amount that would have been charged the individual for the items and services in question, less deductible and coinsurance amounts applicable in the particular case, had such expenses not



been paid pursuant to § 411.400 of this chapter or had such liability not been limited pursuant to § 411.402 of this chapter.

(i) Notwithstanding the provisions of paragraphs (c) through (f) of this section, two or more timely filed appeals may be aggregated to reach the \$100 jurisdictional amount required for a hearing and the \$1000 amount required for judicial review as follows:

(1) A beneficiary may combine claims from the same or different providers(s) if the claims involve the delivery of similar or related services.

(2) A single provider of services may combine its claims from the same beneficiary if the claims involve the delivery of similar or related services; or

(3) A single provider of services may combine its claims from several different beneficiaries if common issues of law and fact are involved; i.e., the same service is furnished to two or more beneficiaries and the adverse determinations were made on the same grounds.

(j) When a provider furnishes items or services under Medicare Part B, these appeals are conducted by intermediaries and administrative law judges under the regulations governing appeals of part B claims, found at 42 CFR part 405, subpart H.

4. Section 405.741 is revised to read as follows:

**§ 405.741 Determinations of amount in controversy.**

(a) The determination as to whether the amount in controversy is—

(1) \$100 or more is made by the presiding officer;

(2) \$1,000 or more is made by the reviewing court.

(b) In determining the amount in controversy, the presiding officer and the reviewing court, as appropriate, also make the determination as to what constitutes "similar or related services" and "common issues of law and fact."

(c) In the determination of "common issues of law" each statutory basis for denial or each basis for appeal is mutually exclusive from each and every other statutory basis for denial or appeal. Aggregating claims on the basis of more than one statutory basis for denial or appeal in order to reach a minimum amount in controversy needed for appeal is not permitted.

5. A new § 405.742 is added to read as follows:

**§ 405.742 Procedural rules for aggregating claims.**

In order for claims to be aggregated to meet the amount in controversy requirements of § 405.740(i) and (j) of

this subpart, the following requirements must be met:

(a) The request for a hearing must specifically identify the claims that comprise the total amount in controversy. The claimant must identify each claim by: type of item or service, date of service, person or entity that furnished the item or service and the amount being contested. The claimant must also identify the basis for the aggregation; i.e., describe why the claims are either "similar or related" or involve "common issues of law and fact."

(b) At each review level, the filing time limit must be met for all claims to be aggregated. For example, the claims involved in two or more reconsideration determinations, one received on June 5 and one received on July 10, may be aggregated by a claimant in a single request for an ALJ hearing only if the hearing is requested not later than August 4 because the hearing must be requested within 60 days after receipt of the reconsideration determination.

(c) For a hearing under part A (or part B, for certain PRO or HMO/CMP matters), the claims first must have been reconsidered by the appropriate entity;

(d) Unless authorized elsewhere in the regulations, a claimant may not combine part A and part B claims together to meet the requisite amount in controversy for a hearing or judicial review.

B. Part 405, Subpart H is amended as follows:

**Subpart H—Review and Hearing Under the Supplementary Medical Insurance Program**

1. The authority citation for subpart H is revised to read as follows:

Authority: Secs. 1102, 1842(b)(3)(C), and 1869(b) of the Social Security Act (42 U.S.C. 1302, 1395u(b)(3)(C), 1395ff(b)).

2. Section 405.802 is revised to read as follows:

**§ 405.802 Definitions.**

As used in subpart H, the term—

*Assignee* means a physician or supplier who furnished services to a beneficiary under the supplementary medical insurance program and who has accepted a valid assignment executed by the beneficiary.

*Assignment* means the transfer by the assignor of his or her claim for payment to the assignee in return for the latter's promise not to charge more for his or her services than the carrier (or, as appropriate, intermediary) finds to be the reasonable charge or other approved amount.

*Assignor* means a beneficiary under Medicare Part B whose physician or

supplier has taken assignment of a claim.

*Carrier* means an organization which has entered into a contract with the Secretary pursuant to section 1842 of the Act and which is authorized to make determinations with respect to part B of title XVIII of the Social Security Act.

*Common issues of \* \* \* fact*, in the phrase "common issues of law and fact," occur when two or more claims arise from the same fact pattern; that is, the issues relate to the delivery of similar or related services, as defined in this section; the issues relate to two or more beneficiaries in an identical manner; and the nature of the denials, and their effects, are the same (e.g., denials of program payment resulting in the provider, physician, or supplier being held fully liable for the unpaid amounts.)

*Common issues of law*, in the phrase "common issues of law and fact," occur when two or more claims have been denied or reduced on the same statutory basis and present the same issue for appeal; e.g., the issue relates to denials of program payment under the identical statutory exclusion; the basis for the appeal is that payment should be made because that statutory exclusion was improperly applied; and the service is actually covered by the program under the same circumstances in all the aggregate cases.

*Common issues of law and fact* arising from services furnished to two or more individuals refers to the essential similarity of the issues presented in both of two contexts: Law and fact.

*Delivery of similar or related services* means services that are—

(1) In the case of part A, similar or related by virtue of having been provided under the same diagnosis related group (DRG) code or International Classification of Diseases, Clinical Modification, 9th Edition (ICD-9-CM) code, or by virtue of such similarity or identity that they are identically coded; or by virtue of having been provided to a single beneficiary during the same continuous course of treatment or continuous period of medical care; or

(2) In the case of part B, similar or related by virtue of such similarity or identity that they have the same procedural terminology and code (identical Common Procedure Coding System code); or by virtue of having been provided to a single beneficiary during the same continuous course of treatment or continuous period of medical care.

*Mutually exclusive bases for appeal* include but are not limited to:



(1) Erroneous application by a Medicare contractor of a specific statutory basis for denial; program payment should have been made.

(2) Erroneous application by a Medicare contractor of a specific statutory basis for denial; program payment should not have been made, but the liability of the provider, physician, or supplier is affected because the provider, physician, or supplier did not know or have reason to know that the service was noncovered.

(3) Whether proper and timely notice of noncoverage was given to the beneficiary.

(4) Erroneous application of an applicable coinsurance.

(5) Amount of an applicable deductible.

(6) Whether the charges for items and services furnished under Part B are reasonable.

*Party* means an individual enrolled under Medicare Part B, the individual's assignee, or other entity having standing in the initial or appellate proceedings.

*Representative* means an individual meeting the conditions described in §§ 405.870-405.871.

*Services* is defined in § 400.202 of this chapter.

3. In § 405.820, paragraphs (a), (b), and (d) are revised to read as follows:

**§ 405.820 Right to hearing.**

(a) *General.* Any party designated in § 405.822 is entitled to a carrier (or, if appropriate, intermediary) hearing after a review determination has been made by the carrier (or, if appropriate, intermediary) if the remaining amount in controversy is \$100 or more as determined in accordance with paragraph (b) of this section when such party files a written request for a hearing. The same parties are also entitled to a hearing before an administrative law judge (ALJ) following the carrier (or, if appropriate, intermediary) hearing if the amount remaining in controversy is \$500 or more and to judicial review following an ALJ hearing if the amount remaining in controversy is \$1,000 or more.

(b) *Amount in controversy.* For the purpose of determining an individual's right to a hearing before a hearing officer or ALJ or to judicial review under paragraph (a) of this section:

(1) The amount in controversy is computed as the actual amount charged the individual for the items and services in question, less any amount for which payment has been made by the carrier and less any deductible and coinsurance amounts applicable in the particular case.

(2) In determining the amount in controversy, two or more timely filed claims may be aggregated under the following circumstances:

(i) A beneficiary may combine claims from the same or different physician(s) or supplier(s) of services if the claims involve the delivery of similar or related services;

(ii) A single physician or supplier of services may combine his or her assigned claims from the same beneficiary if the claims involve the delivery of similar or related services; or

(iii) A single physician or supplier of services may combine his or her assigned claims from several different beneficiaries if common issues of law and fact are involved; i.e., the same service is furnished to two or more beneficiaries and the adverse determinations were made on the same grounds.

(iv) In order to challenge the refund requirements under section 1842(1) of the Act, a single physician may combine his or hers unassigned claims from a single beneficiary if the claims involve the delivery of similar or related services to that individual, or a single physician may combine his or her unassigned claims from several different beneficiaries if common issues of law and fact are involved.

(3) The determination as to whether the amount in controversy is \$100 or more is made by the carrier (or, if appropriate, intermediary) hearing officer. The determination as to whether the amount in controversy is \$500 or more is made by the ALJ. The determination as to whether the amount in controversy is \$1,000 or more is made by the reviewing court. In determining the amount in controversy, the carrier (or, if appropriate, intermediary) hearing officer, the ALJ and the reviewing court, as appropriate, will also make the determination as to what constitutes "similar or related services" and "common issues of law and fact." In the determination of "common issues of law," each statutory basis for denial or each basis for appeal is mutually exclusive from each and every other statutory basis for denial or appeal. Aggregating claims on the basis of more than one statutory basis for denial or appeal in order to reach a minimum amount in controversy needed for appeal is not permitted.

(4) Notwithstanding the provisions of paragraph (b)(1) of this section, when payment is made for certain excluded services pursuant to § 411.400 of this chapter or the liability of the individual for those services is limited pursuant to § 411.402 of this chapter, the amount in controversy is computed as the amount

that would have been charged the individual for the items or services in question, less any deductible and coinsurance amounts applicable in the particular case, had such expenses not been paid pursuant to § 411.400 of this chapter or had such liability not been limited pursuant to § 411.402 of this chapter.

\* \* \* \* \*

(d) *Time of filing request.* Except where the initial determination has been made at a carrier (or, if appropriate, intermediary) hearing (where a claim is not acted upon with reasonable promptness (see § 405.801 of this subpart)), there is a period of 6 months after the date of the notice of the review determination within which a party to the initial or review determination may request a carrier (or, if appropriate, intermediary) hearing. The carrier (or, if appropriate, intermediary) may, upon request by a party, extend the period for filing the request for carrier (or, if appropriate, intermediary) hearing.

4. A new § 405.827 is added to read as follows:

**§ 405.827 Procedural rules for aggregating claims.**

In order for claims to be aggregated to meet the amount in controversy requirements of § 405.820(b) of this subpart, the following requirements must be met:

(a) The request for a carrier (or, if appropriate, intermediary) or ALJ Hearing must specifically identify the claims that comprise the total amount in controversy. The claimant must identify each claim by: Type of item or service, date of service, person or entity that furnished the item or service and the amount being contested. The claimant must also identify the basis for the aggregation; i.e., describe why the claims involve the delivery of "similar or related services" or involve "common issues of law and fact."

(b) At each review level, the filing time limit must be met for all claims to be aggregated. For example, the claims involved in two or more carrier hearing officer decisions, one received on June 5 and one received on July 10, may be aggregated by a claimant in a single request for an ALJ hearing only if the hearing is requested not later than August 4 because the hearing must be requested within 60 days after receipt of the carrier hearing decision.

(c) For a carrier (or, if appropriate, an intermediary) hearing, the Part B) claims must have been reviewed by the carrier (or intermediary), except when an initial payment request has not been acted



upon with reasonable promptness as provided by § 405.801(a);

(d) For an ALJ hearing under Part B, the claims first must have received a hearing before a carrier (or, if appropriate, intermediary) hearing officer; and

(e) Unless provided elsewhere in regulations, a claimant may not combine Part A and Part B claims together to meet the requisite amount in controversy for a carrier (or, if appropriate, intermediary) hearing, ALJ Hearing or judicial review.

5. In § 405.832, paragraphs (c) and (d) are revised as follows:

**§ 405.832 Dismissal of request for carrier (or, if appropriate, intermediary) hearing.**

(c) *Dismissal for cause.* The hearing officer may, on his own motion, dismiss a hearing request, either entirely or as to any stated issue, under either of the following circumstances:

(1) Where the party requesting a hearing is not a proper party under § 405.822 or does not otherwise have a right to a hearing under section 1842(b)(3)(C) of the Act; or

(2) Where the party who filed the hearing request dies and there is no information before the hearing officer showing that an individual who is not a party may be prejudiced by the carrier's determination.

(d) *Dismissal for failure to meet amount in controversy.* The hearing officer may on his own motion dismiss a hearing request where the amount in controversy is less than \$100.

(1) Dismissal by the hearing officer because requirements for aggregating claims on the basis of "delivery of similar or related services" or "common issues of law and fact" (as those terms are defined in § 405.802) are not met may be appealed to an ALJ within 60 days of the date of receipt of the notice of dismissal to the party.

(2) The ALJ must remand the case for hearing to the hearing officer if the dismissal described in paragraph (d)(1) of this section is found to be improper.

**PART 473—RECONSIDERATION AND APPEALS**

Subpart B is amended to read as follows:

A. The authority citation for part 473 continues to read as follows:

Authority: Secs. 1102, 1154, 1155, 1866, 1871, and 1879 of the Social Security Act (42 U.S.C. 1302, 1320c-3, 1320-4, 1395cc, 1395hh, and 1395pp).

B. Section 473.44(a) is revised to read as follows:

**§ 473.44 Determining the amount in controversy for a hearing.**

(a) After a party has submitted a request for a hearing, the ALJ determines the amount in controversy in accordance with § 405.740 of this chapter for Part A services or § 405.820(b) of this chapter for Part B services.

(Catalog of Federal Domestic Assistance Programs No. 93.773, Medicare—Hospital Insurance; No. 93.774, Medicare—Supplementary Medicare Insurance)

Dated: April 26, 1991.

Gail R. Wilensky,  
Administrator, Health Care Financing  
Administration.

Approved: May 31, 1991.

Louis W. Sullivan,  
Secretary.  
[FR Doc. 91-14630 Filed 6-19-91; 8:45 am]  
BILLING CODE 4120-01-M

**FEDERAL MARITIME COMMISSION**

**46 CFR Parts 580 and 581**

[Docket No. 90-25]

**Publication and Filing of Payments Made by Common Carriers to Foreign Freight Forwarders and Ocean Freight Brokers in Tariffs and Service Contracts**

**AGENCY:** Federal Maritime Commission.

**ACTION:** Discontinuance of proceeding.

**SUMMARY:** The Federal Maritime Commission ("Commission") is discontinuing this rulemaking proceeding, which would have amended its foreign tariff and service contract filing regulations to require common carriers and conferences to state in their tariffs and service contracts the amount of payments made, and a description of services for which any payments are made, to foreign freight forwarders or ocean freight brokers. The Proposed Rule also would have defined foreign freight forwarders, foreign freight forwarding services and ocean freight brokers. The Commission has decided that no regulatory purpose would be served by pursuing the Rule at this time.

**FOR FURTHER INFORMATION CONTACT:** Joseph C. Polking, Secretary, Federal

Maritime Commission, 1100 L Street NW., Washington, DC 20573, (202) 523-5725.

**SUPPLEMENTARY INFORMATION:** The Commission initiated this proceeding by publishing in the *Federal Register* (55 FR 39181) a Proposed Rule ("Proposed Rule") to amend its tariff and service contract rules in 46 CFR parts 580 and 581. The Proposed Rule would have addressed the issue of payments made by carriers to intermediaries. Neither the Shipping Act of 1984 ("1984 Act") 46 U.S.C. app. 1701-1720, nor the Commission's regulations, define such intermediaries with respect to operations in inbound trades, nor do they explicitly require that payments made by carriers to such intermediaries be listed in the carriers' tariffs or service contracts.

The Commission received 17 comments from conferences, carriers, trade associations, a foreign freight forwarder and the Department of Justice. One commenter supported the Proposed Rule as published, noting its advantages for the freight forwarding community. Seven other commenters supported the Proposed Rule in part, while suggesting changes or additions ranging from clarification of a single item to the expansion of the scope of the Rule beyond that of the instant proceeding.

Nine commenters opposed the Proposed Rule. Some claimed that the Commission lacks authority to promulgate a final rule in this proceeding. These parties contended that neither the language of the statute nor its legislative history showed that Congress intended the Commission to have jurisdiction over third party entities which operate in the inbound trades. However, the Proposed Rule would not have regulated foreign freight forwarders or ocean freight brokers. Rather, it would have directed carriers to publish specific information regarding their practices and relationships with foreign freight forwarders and ocean freight brokers. The Commission, therefore, rejects the argument that it lacks the statutory authority to implement the Proposed Rule.

Other objections to the Rule were that it was unnecessary and unduly burdensome. Some complained that the Proposed Rule would require a carrier to update information each time it used the services of a new forwarder or broker, or entered into new arrangements with an existing forwarder or broker. Some also contended that the Proposed Rule



would inhibit service competition that results through the use of foreign freight forwarders and ocean freight brokers. By requiring conference carriers to adhere to the fixed terms of arrangements in collective tariffs, the Proposed Rule, according to one commenter, would deny individual conference carriers the flexibility which the 1984 Act preserved for them to respond to competition from their conference rivals.

The Commission takes cognizance of the commenters' concerns and is persuaded as to the merits of some of these. Moreover, the Non-Vessel-Operating Common Carrier Amendments of 1990 (Section 710 of Pub. L. No. 101-595) ("NVOCC Amendments"),<sup>1</sup> and the Commission's Interim Rule issued to implement them, may eliminate some of the problems which the Proposed Rule sought to resolve. NVOCCs are now required to post a \$50,000 bond to evidence their financial responsibility, and to designate an agent for service of process if foreign-domiciled. Many persons thought to be operating as intermediaries as defined in the Proposed Rule are subject to the tariff filing and bonding requirements of the Interim Rule. Consequently, the impact of the instant rulemaking on the industry, as well as its utility for the Commission, may be reduced. The Proposed Rule may therefore be unnecessary. For all the above reasons, it appears that no regulatory purpose would be served by pursuing the Proposed Rule at this time.

Thus, upon consideration of the comments and intervening legislation, the Commission has decided against issuing a final rule, and is discontinuing this proceeding without prejudice to any subsequent determination by the Commission that further action is warranted. The Commission, however, will continue its enforcement efforts under the 1984 Act by pursuing possible malpractices involving shipper intermediaries on a case-by-case basis.

By the Commission.

Joseph C. Polking,  
Secretary.

[FR Doc. 91-14694 Filed 6-19-91; 8:45 am]

BILLING CODE 6730-01-M

<sup>1</sup> The NVOCC Amendments were enacted during the Proposed Rule's comment period. The effective date of the initial Interim Rule was stayed from February 14, 1991, to April 15, 1991. (Docket No. 91-01 Bonding of Non-Vessel-Operating Common Carriers and Petition P1-91 Non-Vessel-Operating Common Carriers Bonding Requirements, Petition for Temporary Exemption.)

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AB56

#### Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for the Marbled Murrelet in Washington, Oregon and California

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) proposes to determine the marbled murrelet (*Brachyramphus marmoratus*) a threatened species in Washington, Oregon and California pursuant to the Endangered Species Act of 1973, as amended (Act). The subspecies ranges from Alaska (Aleutian Archipelago, Kodiak Island, and Kenai Peninsula) south to central California. Some wintering birds are found in southern California. The marbled murrelet is threatened by the loss or adverse modification of nesting habitat (old-growth and mature forests) primarily due to commercial timber harvesting. It is also threatened from mortality associated with current gill-net fishing operations and the effects of oil spills throughout its range. If made final, the proposed action would extend the Act's protection to the marbled murrelet in California, Oregon and Washington. The Service seeks data and comments from the public on this proposed rule.

**DATES:** Comments from all interested parties must be received by September 18, 1991. Public hearing requests must be received by August 5, 1991.

**ADDRESSES:** Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Portland Field Station, 2600 SE 98th Ave, suite 100, Portland, Oregon 97266. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Mr. Russell D. Peterson, Field Supervisor, Portland Field Station at the above address (503/231-6179 or FTS 429-6179).

#### SUPPLEMENTARY INFORMATION:

##### Background

##### Life History Summary

The marbled murrelet (*Brachyramphus marmoratus*) is a robin-sized member of the Alcidae

family. It was first described in 1789 by Gmelin as *Colymbus marmoratus*, but in 1837 Brandt placed it under the genus *Brachyramphus* (American Ornithologists' Union 1983). The North American subspecies (*B. m. marmoratus*) ranges from the Aleutian Archipelago in Alaska, eastward to Cook Inlet, Kodiak Island, Kenai Peninsula and Prince William Sound, southward coastally throughout the Alexander Archipelago of Alaska, and through British Columbia, Washington, Oregon, to central California. Some wintering birds are found in southern California. A separate subspecies (*B. m. perditus*) is present in Asia. Marbled murrelets feed primarily on fish and invertebrates in near-shore marine waters. Although some are found on rivers and inland lakes up to 50 miles from the ocean, most sightings have been within or adjacent to the marine environment (Carter and Sealy 1986).

Although the marbled murrelet is not colonial like most other alcids, small nesting aggregations are evident. Adult marbled murrelets have a low (1 egg per nest) and variable (not all adults may nest every year) reproductive rate. The marbled murrelet uses two nesting strategies; murrelets in the Alaskan Aleutian Archipelago eastward to the Alaskan Kenai Peninsula are apparently ground-nesters, whereas those of the Alaskan Alexander Archipelago and south are tree-nesters. In Alaska, there may be overlap in ground-nesting and tree-nesting on the Kenai Peninsula, Kodiak Island, and Prince William Sound area (Kuletz, USFWS, pers. com.). We ground nests have been located, to date, in the extensively forested area of its range, which extends from southeastern Alaska to central California.

In tree nests, adult marbled murrelets lay one egg on the flat surface of large moss covered branches of coniferous trees. Nesting occurs over an extended period from mid-April to late September (Carter and Sealy 1987). Incubation lasts about 30 days and fledgling takes another 28 days (Simons 1980, Hirsch et al. 1980). Both sexes incubate the egg in 24-hour shifts (Simons 1980). Flights by adults are made from ocean feeding areas to inland nest sites most often at dusk and dawn. The chick is fed at least once a day; only one fish at a time is carried to the young (Carter and Sealy 1987). The young are altricial, but remain in the nest longer than young of most other alcids. Before leaving the nest, the young molt into a distinctive juvenile plumage. Fledglings probably fly from the nest to the sea. Marbled murrelets do not reach sexual maturity



until their second year. Longevity of marbled murrelets is unknown, as are survival and mortality rates.

Throughout the forested portion of the subspecies' range, marbled murrelets used old-growth and old-growth/mature forests occurring near the coastline for nesting and possibly for other activities, such as roosting. From the Alexander Archipelago of Alaska and south, nesting occurs in trees in old-growth and old-growth/mature forests (Binford et al. 1975; Carter and Sealy 1987; Quinlan and Hughes 1990; Nelson, OR Coop. Wildl. Res. Unit, pers. com.; Cummins, Wash. Dept. of Wildl., pers. com.; Burger 1990; Singer et al. 1989). Evidence of tree nesting in old-growth forests has been documented by: (1) Actual tree nests in old-growth trees located in California, Oregon, Washington, British Columbia, and southeast Alaska; (2) stranded downy young and fledglings found on the ground in or near old-growth forests; (3) murrelet concentrations offshore from old-growth and mature forests during the nesting season, and; (4) numerous sightings and aural detections of marbled murrelets flying in or adjacent to old-growth and mature forests (Marshall 1988). Furthermore, the bird is cryptically colored and lacks a leg structure typical of burrowing alcids.

Twelve tree nests have been located in North America; three each in Washington and California, four in Oregon, and one each in Alaska and British Columbia. All of these nests were located on large, moss covered limbs, associated with old-growth or mature trees. Stands containing nest trees were composed of large trees with open crowns. Nests were located high above ground and usually had good overhead protection; such locations would seem to allow easy access to the exterior of the forest. Nest sites were located in old-growth redwood (*Sequoia sempervirens*) stands in California and in stands dominated by Douglas-fir (*Pseudotsuga menziesii*) in Oregon and Washington. In Alaska, the nest was located in a mountain hemlock (*Tsuga mertensiana*) in an old-growth hemlock stand. In British Columbia, the nest tree was located in an old-growth stand of Sitka spruce (*Picea sitchensis*).

Small numbers of nestlings or flightless young have been found throughout the subspecies' range. Carter and Sealy (1987) reported that 8 of 10 downy young and 20 of 31 fledglings from throughout the range were located in old-growth coniferous forests, with the remaining being adjacent or near to old-growth forests.

#### *Marbled Murrelet Detections and Old-growth Habitat*

Significantly higher detection rates for marbled murrelets have been observed in old-growth forests compared to mixed-age and young forests in California, Oregon, and Washington (Ralph et al. 1990; Nelson 1990; Hamer 1990). The number of detections in California were also greater in larger stands of old-growth (greater than 500 acres) than in smaller stands (less than 100 acres), with the majority of transects near stands less than 60 acres having no detections (Paton and Ralph 1988, Ralph et al. 1990). Concentrations of murrelets offshore were almost always adjacent to old-growth forests on-shore. Where old-growth forests were absent, murrelets were absent offshore (Speich et al. 1988, Nelson 1990, Ralph et al. 1990).

#### *Marbled Murrelet Detections and Forest Fragmentation*

In Washington, marbled murrelet detections increased when the percent of old-growth/mature forests available made up over 30 percent of the landscape. Similarly, detections of murrelets decreased when the percent of clearcut/meadow available on the landscape increased above 25 percent (Hamer 1990). Nelson (1990) found that the number of detections were significantly lower in the highly fragmented Oregon Coast Range, compared to detection rates documented by Paton and Ralph (1988) in a less fragmented area in northern California.

#### *Population Size*

Washington's breeding population is estimated at about 5,000 birds (Speich et al. 1988). Fewer than 5,000 birds inhabit coastal Oregon (Marshall 1988, Varoujean and Williams 1987) with the most recent estimates being less than 1,000 pairs (Nelson, OR Coop. Wildl. Res. Unit, pers. com.). Biologists in California have conducted the most recent extensive inventories and estimate about 2,000 individuals, or fewer than 1,000 pairs, are present in the state during the breeding season (Marshall 1988). Marbled murrelets in British Columbia appear to occupy the entire length of the coast. The most thorough censuses have been done in Barkley and Clayoquot sounds on Vancouver Island and, based on these census results and other counts, it is estimated that there are approximately 20,000 to 45,000 breeding birds in British Columbia (Kaiser, Canadian Wildl. Serv., pers. com.; Rodway and COSEWIC 1990). The population in Alaska is not well understood, but has been estimated to be from 50,000 to

more than 250,000; the greatest densities occur in southeast Alaska (Mendenhall 1988).

Seasonal changes (winter to summer) in population distribution and numbers are evident, indicating local migration. Breeding populations are discontinuously distributed throughout the forested portion of the range and gaps exist between separate nesting aggregations. Nesting aggregations are concentrated in remaining patches of old-growth and old-growth/mature forests. Small numbers of isolated birds exist between these concentrated aggregations, however the breeding status of these birds is unknown. A large break in the breeding distribution is located at the southern portion of the range in California, where about 300 miles separate southern breeding populations in San Mateo County from the next site to the north in Humboldt County (Humboldt Redwoods State Park). This unpopulated reach contained marbled murrelets prior to extensive logging (Paton and Ralph 1988). Another gap is located between the Olympic Peninsula in Washington and Tillamook County in Oregon. The degree of genetic exchange among marbled murrelets in the northern and southern portions of the subspecies' range is unknown.

The principal factor affecting the marbled murrelet throughout the southern portion of its range (from California north to British Columbia) is the loss of old-growth and mature forests. In Oregon, historic records show that marbled murrelets were consistent summer residents, particularly in Lincoln, Tillamook, and Lane counties (Gabrielson and Jewett 1940). That is no longer true in Tillamook County, where nearly all of the old-growth forests near the coast have been cut, or lost due to fire. The species is no longer found in significant numbers during the nesting season near the mouth of the Columbia River, where old-growth forests have been cut. Loss of old-growth forests due to timber harvest also takes place in southeast Alaska, although the degree to which Alaskan populations are affected is unknown.

Old-growth and mature forests have declined throughout the range of the marbled murrelet as a result of commercial timber harvest, with additional losses from natural causes such as fire, windthrow, etc. Current estimates of 7.1 million acres of old-growth and mature forests in western Oregon and Washington indicate a reduction of over 60 to 90 percent in the past 190 years (USDA 1989). Old-growth forests in the Douglas-fir/mixed conifer region of northwestern California may



have undergone a similar reduction of about 45 to 80 percent since the mid-1800's (Laudenslayer 1985; Fox 1988; California Department of Forestry and Fire Protection 1988). This acreage is distributed over a broader geographic area than is occupied by the marbled murrelet but the amount and rate of habitat loss are similar within the murrelet's range.

Most suitable nesting habitat (old-growth and mature forests) on private lands within the range of the subspecies in Washington, Oregon, and California has been eliminated by timber harvest (Green 1985, Norse 1988, Thomas et al. 1990). Remaining tracts of potentially suitable habitat on private lands throughout the range are subject to continuing timber harvest operations.

#### Petition Process Background

The National Audubon Society submitted a petition to the Service on January 15, 1988, to list the California, Oregon, and Washington populations of the marbled murrelet as a threatened species. Section 4(b)(3)(A) of the Act requires that, to the maximum extent practicable, within 90 days of receipt of a petition to list, delist, or reclassify a species, a finding be made as to whether or not substantial information has been presented indicating that the requested action may be warranted. The 90-day finding stating that the petition had presented substantial information to indicate that the requested action may be warranted was published in the *Federal Register* on October 17, 1988 (53 FR 40479). Because of the increased research efforts and the amount of new data available, the status review period was reopened, with the concurrence of the petitioners, from March 5, 1990 through May 31, 1990 (55 FR 4913).

The marbled murrelet has been listed on the Service's Notice of Review for vertebrate wildlife as a category 2 candidate species for listing. A category 2 candidate is one for which information contained in Service files indicates that preparation of a proposal to list the species is possibly appropriate but additional data is needed to support a listing proposal. The best available scientific and commercial data have now been analyzed and evaluated as a result of the recent status review for the marbled murrelet. These data contributed to the information on which was based the decision to propose this subspecies in California, Oregon and Washington for listing. The review included the pertinent data available from both published and unpublished sources. Unpublished sources included solicited progress and final reports, file data, meeting notes, letters, and

personal contact with agencies, organizations, and individuals. This proposed rule to list the marbled murrelet as a threatened species in California, Oregon and Washington constitutes the 12-month finding that the petitioned action is warranted, in accordance with section 4(b)(3)(B) of the Act.

#### Summary of Factors Affecting the Species

Section 4 of the Act and regulations promulgated to implement the listing provisions of the Act (50 CFR part 424) set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the marbled murrelet (*Brachyramphus marmoratus marmoratus*) in California, Oregon, and Washington, are as follows:

A. *The Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range.* Western Oregon and Washington were covered by approximately 24 to 28 million acres of forest at the time of modern settlement (early to mid-1800's), of which about 70 percent (14 to 19 million acres) is estimated to have been old growth (Society of American Foresters Task Force 1983, Spies and Franklin 1988, Morrison 1988, Norse 1988). Historical estimates for northwestern California are not as precise, but suggest there were between 1.3 and 3.2 million acres of old-growth Douglas-fir/mixed conifer forest and approximately 2.2 million acres of old-growth coastal redwood forest (Society of American Foresters Task Force 1983, Laudenslayer 1985, Fox 1988, California Department of Forestry and Fire Protection 1988, Morrison 1988).

Current estimates of 7.1 million acres of old-growth and mature forests in western Oregon and Washington indicate a reduction of over 60 to 90 percent in the past 190 years (USDA 1989). Old-growth forests in the Douglas-fir/mixed conifer region of northwestern California have undergone a similar reduction of about 45 to 80 percent since the mid-1800's (Laudenslayer 1985, Green 1985; Fox 1988; California Department of Forestry and Fire Protection 1988). Recent estimates (Spies and Franklin 1988, Morrison 1988, Norse 1988) suggest that this reported decline in historical old-growth habitat, in fact, may be as high as 83 to 88 percent. Reduction of the remaining old-growth and mature forest has not been evenly distributed over western Oregon, Washington and northwestern

California. Harvest has been concentrated at the lower elevations and the Coast Ranges (Thomas et al. 1990), generally equating with the range of the marbled murrelet. Reduction of these older forests is largely attributable to timber harvesting and land conversion practices, although natural perturbations, such as forest fires and windthrow, have caused losses as well.

Forests generally require approximately 200 years to develop old-growth characteristics, however, forests in Washington, Oregon, and northern California have been subjected to, and are proposed for, intensive management with average cutting rotations of 70 to 120 years to produce wood at a non-declining rate (USDI 1984, USDA 1988). Cutting rotations of 40 to 50 years are used for some private lands. Current preferred timber harvest strategies on Federal lands and some private lands emphasize dispersed clearcut patches for even-aged management as the pattern of harvest. Thus, public forest lands that are intensively managed for timber production (cutting rotations of 70 to 120 years) are, in general, not allowed to develop old-growth characteristics. As a result of this short rotation age and the continued harvest of old-growth and mature forests, loss and fragmentation of remaining suitable nesting habitat for marbled murrelets will continue throughout the forested range of the subspecies under current management practices, except in reserved areas.

The geographic distribution of the marbled murrelet along the west coast of North America is discontinuous. About one-third of the bird's range is in California, Oregon, and Washington and contains less than 10 percent of the entire population (Marshall 1988). The gap in the present distribution in the southern portion of the range in California was apparently the result of extensive clearcutting of forests in the earlier half of this century that eliminated most nesting habitat (Paton and Ralph 1988, Carter and Erickson 1988). Other local breeding populations, especially between the Olympic Peninsula in Washington and Tillamook County in Oregon, may have been eliminated through loss of their nesting habitat—old-growth and mixed old-growth/mature coniferous forests within 50 miles of marine environments (Nelson, OR Coop. Wildl. Res. Unit, pers. com.). Logging of those forests within the subspecies' range has been extensive. Most remaining nesting habitat within the petitioned states is on Federal and State owned lands, as most nesting habitat on private lands has



been eliminated. Under current forest management practices, logging of the remaining old-growth and old-growth/mature forests is likely to continue.

Canada has officially listed the marbled murrelet as a threatened species in British Columbia. The primary threat in British Columbia is the harvest of marbled murrelet nesting habitat (old-growth and mature forests). Secondary threats identified in the Canadian listing report included gill-net fishing and oil spills (Rodway and COSEWIC 1990).

**B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes.** Not known to be applicable.

**C. Disease or Predation.** Predation on nests has been documented on several occasions. Predators include corvids (crows, ravens, and jays), great horned owls, and peregrine falcons. Although predators take nests (eggs and/or downy young), predation and disease are not known to be significant factors in the decline of marbled murrelet populations.

**D. Inadequacy of Existing Regulatory Mechanisms.** Marbled murrelets are protected from "take" by the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*), but no protection is afforded habitat under this statute. Other laws and regulations to protect the subspecies' habitat in the United States have not been enacted by the Federal government. The marbled murrelet is identified as Sensitive by the USDA Forest Service and the Bureau of Land Management. California, Oregon, and Washington have legislative mandates and acts specific to listing and protecting species determined to be endangered or threatened. The marbled murrelet has not been declared endangered or threatened by any of these states, but is listed as a species of special concern in California by the California Department of Fish and Game and as Sensitive in Oregon and Washington by the Oregon Department of Fish and Wildlife and Washington Department of Wildlife, respectively. None of the above categories of status provide any mandated protection.

The National Forest Management Act of 1976 and its implementing regulations require the USDA Forest Service to manage National Forests to provide sufficient habitat to maintain viable populations of native vertebrate species, such as the marbled murrelet. These regulations define a viable population as one which "has the estimated numbers and distribution of reproductive individuals to insure its continued existence is well distributed" (36 CFR 219.19). Current management by the Forest Service in Oregon, Washington, and California (55 FR 23396), and Bureau

of Land Management in Oregon protects proposed Habitat Conservation Areas (HCAs) for northern spotted owls (*Strix occidentalis caurina*) (Thomas *et al.* 1990). Some of these HCAs occur within portions of the range of the marbled murrelet (within 50 miles of the coast) in all three states. In Oregon and Washington, the HCAs, plus other set aside areas, would protect about 74 percent of the suitable marbled murrelet habitat, but only about 63 percent of the known occupied sites (USDA 1991). The majority of detections and number of birds in Oregon occur within 12 miles of the coast, where much of the suitable habitat and known sites are not protected (Nelson, OR Coop. Wildl. Res. Unit, pers. com.). In addition, since the relationship between patch size and occupancy or reproductive success through time is not known, long-term protection should not be assumed. Protection may not be adequate in such areas as Category 4 HCAs which are a maximum of 80 acres or sites on the edge of protected areas. Therefore, these HCAs and other set asides may not provide sufficient incidental protection for marbled murrelets. No analysis of HCA overlap with marbled murrelet nest stands has been completed for California.

On May 6, 1991, the Service proposed to designate 11.6 million acres as critical habitat for the northern spotted owl in Washington, Oregon and California (56 FR 20816). These critical habitat areas include most of the HCAs and add areas around and between them. It is not currently known to what extent these proposed critical habitat areas may provide additional protection for the marbled murrelet.

**E. Other Natural or Man-made Factors Affecting its Continued Existence.** Mortality from gill-net fishing and oil spills has had a negative impact on the marbled murrelet. Gill-net fishing is an annual occurrence in Washington and British Columbia. For example, about 1,200 gill-net licenses are issued each year in Washington. A gill-net fishery occurs in all areas of marbled murrelet concentrations in Washington (Speich *et al.* 1988). One study conducted in British Columbia along Vancouver Island documented gill-netting as responsible for killing approximately eight percent of the potential fall population of marbled murrelets (Carter and Sealy 1984). Gill-net fisheries exist in Washington but the mortality rate is unknown.

Marbled murrelets have a high susceptibility to mortality from oil spills because they tend to spend most of their time swimming on the sea surface and feeding in local concentrations close to

shore. Oil spills are chance events but, depending on the location, extent, and season of spill, could have significant adverse effects on local or regional populations of marbled murrelets. The Exxon Valdez oil spill of 1989 occurred in Prince William Sound, Alaska, and adversely affected local populations of marbled murrelets (Piatt *et al.* 1990). Oil tanker use is substantial in coastal waters throughout the subspecies range. For the three-state area of this proposed rule, Puget Sound in Washington is a special concern.

Marbled murrelets are found both during the nesting season and during winter within areas affected by oil shipments. If approved, proposed oil exploration, possibly leading to production and increased movement of oil along the near-shore marine environment in Washington, Oregon, and California would increase the degree of threat from oil spills. Oiled marbled murrelets were reported in Washington during the Seagate oil spill of 1956 and during the Arco Anchorage oil spill of 1985 (Leschner and Cummins 1990). Several instances of marbled murrelet mortality due to oil spills have been documented in California, as well (Carter and Erickson 1988). Because the populations in Oregon, Washington, and California are small and locally concentrated, oil spills could result in local extirpations.

The marbled murrelet's reproductive strategy offers little opportunity for the population to rapidly increase in number. Murrelets may not reproduce every year, and pairs only lay one egg in a nest. Such a low reproductive rate is unlikely to yield a rapidly increasing population, or one that can easily recover once numbers have been depleted.

The Service has carefully assessed the best scientific and commercial data available and concluded that the marbled murrelet in California, Oregon, and Washington is threatened due to loss of mature and old-growth forests which provide suitable nesting habitat. Secondary threats include gill-net fisheries and oil spills. The degree of threat facing the marbled murrelet does not suggest that extinction is imminent, but continued loss of nesting habitat throughout the forested portion of its range, especially in California, Oregon, and Washington, indicates the species is likely to become endangered within the foreseeable future throughout a significant portion of its range.

The Act defines "endangered species" as any species which is in danger of extinction throughout all or a significant portion of its range. The term



"threatened species" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

California, Oregon, and Washington constitute a significant portion of the marbled murrelet's range. In these states, the species is immediately threatened by the loss of nesting habitat (old-growth and mature forests). Although the proposed spotted owl HCAs in California, Oregon, and Washington would provide some protection, they would not provide sufficient protection for marbled murrelet nesting habitat. Critical habitat areas that have recently been proposed for the northern spotted owl may also provide some protection for the marbled murrelet, however, at this time it is not known to what extent. Mortality from gill-net fishing and the risk of mortality from oil spills are also threats, but these threats are not as immediate or as major as the loss of nesting habitat.

The status of marbled murrelets in Alaska is not well understood. Studies to be conducted during the summer of 1991 should provide information to better evaluate marbled murrelets in Alaska.

#### Critical Habitat

Critical habitat is defined as the specific areas within the geographical area currently occupied by a species on which are found the physical or biological features essential to the conservation of the species and that may require special management considerations or protection (16 U.S.C. 1532(5); 50 CFR 424.02(d)). Designations of critical habitat must be based on the best scientific data available and must take into consideration the economic and other relevant impacts of specifying any particular area as critical habitat (16 U.S.C. 1533(b)(2)). Section 4(a)(3) of the Act requires that, to the maximum extent prudent and determinable, the Secretary shall designate critical habitat at the time the species is listed as endangered or threatened.

The Service finds that critical habitat for the marbled murrelet is not presently determinable. The Service's regulations (50 CFR 424.12(a)(2)) state the critical habitat is not determinable if information sufficient to perform required analyses of the impacts of the designation is lacking or if the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat. Much of the old-growth and mature forests from central California to southeast Alaska have been fragmented by logging and many stands are isolated from each

other or are too small in size to provide support for nesting marbled murrelets. Information on size, spatial configuration, and juxtaposition of habitat blocks essential to the conservation of the marbled murrelet is not available at this time. Inland survey data on marbled murrelet presence is also lacking throughout much of the species' range. Proposed HCAs for the spotted owl encompass some of the nesting areas currently utilized by marbled murrelets in California, Oregon, and Washington, but the extent of the overlap is not completely known, as is the extent of long-term commitment to HCA management. Additional information on nest sites, flight corridors, and other aspects of marbled murrelet behavior is needed to determine critical habitat.

During the comment period on the proposed listing, the Service will seek additional agency and public input on critical habitat, along with information on the biological status of the threats to the marbled murrelet. The Service will use this and other information in formulating a decision on critical habitat designation for the marbled murrelet.

#### Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. Regulations governing these conferences are found at 50 CFR 402.10. If a species is listed subsequently, section 7(a)(2) requires

Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The U.S. Forest Service and Bureau of Land Management have active timber sale programs in Washington, Oregon and California, whereby private timber companies bid for timber on Federal land. A substantial portion of these timber sales occur in old-growth/mature forests. The Forest Service and Bureau of Land Management would review and assess the potential impacts of these timber sales on the murrelet, and would consult with the Service on these sales to ensure compliance pursuant to section 7 of the Act.

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife not covered by a special rule. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States, to take (defined as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these activities), import or export, transport in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce, any threatened species not covered by a special rule. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing threatened species permits are provided in 50 CFR 17.32. Unless otherwise provided by special rule, such permits are available for scientific purposes, to enhance the propagation or survival of the species, for economic hardship, zoological exhibition, educational purposes, special purposes consistent with the Act, and/or for incidental take in connection with otherwise lawful activities.

#### Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or



suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule, are hereby solicited. Comments are particularly sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) of this species;

(2) The location of any additional populations of this species;

(3) The reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(4) Additional information concerning the range, distribution, and population size of this species; and

(5) Current or planned activities in the subject area and their possible impacts on this species.

Final action concerning this proposal will take into consideration the comments and any additional data received by the Service. Such communications may lead to a final regulation that differs from this proposal.

The Endangered species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication

of the proposal. Such requests must be made in writing and addressed to the field supervisor, Portland Field Station (see ADDRESSES section).

#### National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

#### References Cited

A complete list of all references cited herein is available upon request from the Field Supervisor, U.S. Fish and Wildlife Service, Portland Field Station, 2600 S.E. 98th, suite 100, Portland, Oregon 97266.

#### Authors

The primary authors of this proposed rule are Gary S. Miller, U.S. Fish and Wildlife Service (see ADDRESSES section); telephone 503/231-6179 or FTS 429-6179; and Robert Ruesink, U.S. Fish

and Wildlife Service, Fish and Wildlife Enhancement, 911 NE 11th Avenue, Portland, Oregon, 97232 (503/231-6131 or FTS 429-6131).

#### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

#### Proposed Regulation Promulgation

#### PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under Birds, to the List of Endangered and Threatened Wildlife:

#### § 17.11 Endangered and threatened wildlife.

\* \* \* \* \*

(h) \* \* \*

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Birds							
Murrelet, marbled	<i>Brachyramphus marmoratus</i>	U.S.A. (CA, OR, WA, AK); Canada (British Columbia).	WA, OR, CA	T		NA	NA

Dated: June 14, 1991.

Richard N. Smith,  
Deputy Director, U.S. Fish and Wildlife Service.

[FR Doc. 91-14374 Filed 6-19-91; 8:45 am]

BILLING CODE 4310-55-M



# Notices

Federal Register

Vol. 56, No. 119

Thursday, June 20, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forms Under Review by Office of Management and Budget

Dated: June 14, 1991.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, DC 20250, (202) 447-2118.

#### New Collection-Emergency

- Agricultural Stabilization and Conservation Service

7 CFR 1427—Upland Cotton First Handler and Domestic User/Exporter Agreement and Payment Program  
CCC-1044 and CCC-1045  
On occasion; Weekly  
Farms; Small businesses or organizations; 29,000 responses; 14,500 hours  
Janice Zygmunt, (202) 447-6734

#### Reinstatement

- Farmers Home Administration

7 CFR 1955—A, Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property

Form FmHA 1955-1

On occasion

Individuals or households; State or local governments; Farms; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 10,410 responses; 5,917 hours

Jack Holston, (202) 382-9736.

Donald E. Hulcher,

Deputy Departmental Clearance Officer.

[FR Doc. 91-14665 Filed 6-19-91; 8:45 am]

BILLING CODE 3410-01-M

## Forest Service

**Ketchikan Pulp Company 50-Year Timber Sale Contract, Tongass National Forest, Ketchikan Area, Revillagigedo Island**

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** The Department of Agriculture, Forest Service, will prepare a site-specific Environmental Impact Statement (EIS) as part of its on-going commitment to provide timber to Ketchikan Pulp Company (KPC) under the terms of an existing timber sale contract. The Record of Decision (ROD) will decide how to provide sufficient harvest units, roads, and associated timber harvesting facilities to meet the operational needs of KPC for an estimated 2 to 3 year period. Harvest units will be located within the primary sale area boundaries, mainly on Revillagigedo Island.

**DATE:** Comments concerning the scope of the analysis should be received by July 15, 1991.

**ADDRESSES:** Written comments and suggestions concerning the scope of the analysis must be sent to Dave Rittenhouse, Forest Supervisor, Tongass National Forest, Ketchikan Area, Federal Building, Ketchikan, AK 99901.

**FOR FURTHER INFORMATION CONTACT:** Questions about the proposed action and environmental impact statement should be directed to Walter Dortch, Planning Staff Officer, Tongass National Forest, Ketchikan Area, Federal

Building, Ketchikan, AK 99901, phone 907-225-3101.

**SUPPLEMENTARY INFORMATION:** The Agency proposes to authorize harvest of approximately 200 MMBF of timber, and to construct roads and facilities necessary to transport this timber, to salt water. The authorization is expected to include harvest of approximately 8,000 acres of land within Visual Quality Units (VCU's) 732, 733, 735, 736, 737, 738, 739, and 740, and will be made available to KPC, under the terms of the existing long-term timber sale contract, in several offerings.

The Responsible Official for this EIS is the Regional Forester, Michael A. Barton, who must decide on various unit locations and acreage necessary to meet the objectives of the EIS. He will select from a full array of alternatives presented in the EIS, including the alternative of "no action". Site-specific issues for this project are expected to include:

1. Do the harvest units being evaluated in the alternatives provide for an economically viable offering under the terms of the long-term timber sale contract?

2. What are the projected impacts to subsistence users of the land being proposed for timber harvest if harvest is authorized?

3. What are the effects of the harvest of timber and associated road construction on forest resources such as visual quality, fish and wildlife habitat, and upon wildlife species thought to be dependent upon old-growth habitat. Mitigation measures, as well as standards and guidelines for setting harvest units and roads, will be prescribed in the EIS for each harvest unit and road being evaluated.

4. What are the projected cumulative environmental effects resultant from harvesting individual units and roads within these prescription? Do these prescriptions provide results consistent with the expectations of the Tongass National Forest Land Management Plan Land Use Designations for the sites being evaluated?

5. The Tongass Timber Reform Act of 1991 provides for certain desired forest conditions with respect to proportionality and fisheries protection. Do the harvest units and roads proposed provide for those desired forest conditions?



Public participation will be especially important at several points during the analysis. The first point is during the scoping process. The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies, and other individuals or organizations who may be interested in, or affected by, the proposed action. This input will be used in preparation of the Draft Environmental Impact Statement (DEIS). Scoping is to begin in June 1991. Public meetings are planned for Ketchikan in September 1991 and August 1992. Subsistence hearings, as provided for in ANILCA, are planned for July 1992. The DEIS should be filed with EPA April 1992, and the final EIS filed in December 1992.

The comment period on the DEIS will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the Federal Register. It is very important that those interested in this proposed action participate at this time. To be the most helpful, comments on the DEIS statement should be as specific as possible, and may address the adequacy of the statement or the merits of the alternatives discussed. (See The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal court decisions have established that reviewers of DEIS statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and concerns. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final EIS. *City of Angoon v. Hodel, Harris*, (9th Circuit, 1986), and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final.

Permits required for implementation include the following:

1. U.S. Army Corps of Engineers:
  - Approval of the discharge of dredged or fill materials into waters of the United States, under section 404 of the Clean Water Act.
  - Approval of the construction of structures or work in navigable waters of the United States, under

section 10 of the River and Harbor Act of 1899.

- 2. Environmental Protection Agency:
  - National Pollutant Discharge Elimination System (402) permit.
  - Review Spill Prevention Control and Countermeasure Plan.

3. State of Alaska, Department of Natural Resources:

- Tideland Permit and Lease or Easement.

4. State of Alaska, Department of Environmental Conservation:

- Solid Waste Disposal Permit.
- Certification of Compliance with Alaska Water Quality Standards (401 Certification).

Michael A. Barton, Regional Forester, Region 10, Box 21628, Juneau, Alaska 99802, is the responsible official. The responsible official will consider the comments, responses, disclosure of environmental consequences, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and rationale in the ROD.

Dated: June 11, 1991.

Michael A. Barton,  
Regional Forester.

[FR Doc. 91-14703 Filed 6-19-91; 8:45 am]

BILLING CODE 3410-11-M

## Packers and Stockyards Administration

### Proposed Posting of Stockyards

The Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act (7 U.S.C. 202), and should be made subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*)

GA-210—Sandy Point Horse & Tack Auction, Lizella, Georgia.

MO-270—Norwood Public Auction Yards, Inc., Norwood, Missouri.

NV-103—Fallon Livestock Auction, Fallon, Nevada.

Pursuant to the authority under section 302 of the Act, notice is hereby given that it is proposed to designate the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views or arguments concerning the proposed designation

may do so by filing them with the Director, Livestock Marketing Division, Packers and Stockyards Administration, room 3408-South Building, U.S. States Department of Agriculture, Washington, DC 20250, by June 29, 1991.

All written submissions made pursuant to this notice will be made available for public inspection in the office of the Director of the Livestock Marketing Division during normal business hours.

Done at Washington, DC this 14th day of June, 1991.

Daniel L. Van Ackeren,

Acting Director, Livestock Marketing Division.

[FR Doc. 91-14761 Filed 6-19-91; 8:45 am]

BILLING CODE 3410-KD-M

## DEPARTMENT OF COMMERCE

### Under Secretary for Economic Affairs and Administrator, Economics and Statistics Administration; Advisory Committee of the Task Force for Designing the Year 2000 Census and Census-Related Activities for 2000-2009; Establishment

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. app. 2, and the General Services Administration (GSA) rule on Federal Advisory Committee Management, 41 CFR part 101-6, and after consultation with GSA, the Secretary of Commerce has determined that the establishment of the Advisory Committee of the Task Force for Designing the Year 2000 Census and Census Related Activities for 2000-2009 is in the public interest in connection with duties imposed on the Department by law.

The Committee will advise the Secretary, through the Under Secretary for Economic Affairs, on how the Department might best conduct the year 2000 decennial census of population and housing.

The Committee will consist of twenty-five (25) members to be appointed by the Secretary to assure a balanced representation among private sector census data users, minority groups, professional associations, the Congress, State and local governments, and other organizations. The Committee membership is designed to be as encompassing as possible of all perspectives on decennial censuses.

The Committee will function solely as an advisory body, and in compliance with provisions of the Federal Advisory Committee Act. The Charter will be filed under the Act, fifteen (15) days from the date of publication of this Notice.



Interested persons are invited to submit comments regarding the establishment of this Committee to Harry A. Scarr, Deputy Assistant Secretary for Statistical Affairs, Economics and Statistics Administration, room 4838, Department of Commerce, Washington, DC 20230. Telephone: 202-377-2760; Fax: 202-377-0432.

Dated: June 10, 1991.

Michael Darby,

*Under Secretary and Administrator.*

[FR Doc. 91-14558 Filed 6-19-91; 8:45 am]

BILLING CODE 3510-DT-M

## Foreign-Trade Zones Board

[Docket 33-91]

### Foreign-Trade Zone 125—South Bend, Indiana; Application for Subzone; Coachmen Compact Recreational Vehicle Plant, Middlebury, IN

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the St. Joseph County Airport Authority, grantee of FTZ 125, requesting special-purpose subzone status for a proposed compact recreational vehicle (RV) assembly operation at the plant of Coachmen Recreational Vehicle Company (Coachmen), (subsidiary of Coachmen Industries, Inc.) located in Middlebury, Indiana. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on May 31, 1991.

The Coachmen plant (468,636 sq. ft. on 130 acres) is located at 423 North Main St., Middlebury, Indiana, some 50 miles southeast of Chicago and 30 miles east of South Bend, Indiana. While the facility is currently used to assemble a variety of vehicles, including Type A RVs and camping trailers, subzone status is being requested only for the proposed manufacture of compact (micro-mini) RVs (<6,000-lb. GVW). The company projects that the new operation will employ some 85 persons in the first year of operation, rising to 300 at full production. The micro-mini RV would be built on a foreign-sourced light pickup truck cab/chassis. All other components and materials would involve domestic or duty-paid merchandise.

Zone procedures would exempt Coachmen from Customs duty payments on the foreign light pick-up truck cab/chassis used in vehicles produced for export. On its domestic sales, the company would be able to choose the

lower finished vehicle duty rate (2.5 percent) rather than the pickup truck cab/chassis rate (25 percent). The application indicates that zone savings will help Coachmen improve its international competitiveness and increase export sales. Two other domestic RV plants currently operate under zone procedures: The Forest City, Iowa facility of Winnebago, Industries, Inc. (FTZ Subzone 107A, Board Order 273, 49 FR 35971, 9/13/84); and, the Perris, California facility of National RV (FTZ Subzone 50C, Board Order 484, 55 FR 35159, 8/28/90).

In accordance with the Board's regulations, an examiners committee has been approved to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Richard Roster, District Director, U.S. Customs Service, North Central Region, suite 217, 610 South Canal Street, Chicago, Illinois 60607; and Colonel Richard Kanda, District Engineer, U.S. Army Engineer District Detroit, McNamara Federal Building, 477 Michigan Avenue, Detroit, Michigan 48226.

Comments concerning the proposed subzones are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before July 29, 1991.

A copy of the application is available for public inspection at each of the following locations:

Office of the District Director, U.S. Department of Commerce, 1406 Mid-Continental Plaza Bldg., 55 E. Monroe St., Chicago, Illinois 60603.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., room 3716, Washington, DC 20230.

Dated: June 13, 1991.

John J. Da Ponte, Jr.,

*Executive Secretary.*

[FR Doc. 91-14746 Filed 6-19-91; 8:45 am]

BILLING CODE 3510-DS-M

[Docket 19-91]

### Foreign-Trade Subzone 78A, Nissan Auto/Truck Plant, Smyrna, TN; Application for Expansion; Extension of Public Comment Period

The comment period for the above case, requesting authority to expand the subzone and the scope of manufacturing authority for Foreign-Trade Subzone 78A of Nissan Motor Manufacturing Corporation U.S.A. (56 FR 16067, 4/19/

91), is extended to August 6, 1991, to allow interested parties additional time in which to comment on the proposal.

Comments in writing are invited during this period. Submissions should include 5 copies. Material submitted will be available at: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: June 13, 1991.

John J. Da Ponte, Jr.,

*Executive Secretary.*

[FR Doc. 91-14747 Filed 6-19-91; 8:45 am]

BILLING CODE 3510-DS-M

## International Trade Administration

[A-201-803]

### Preliminary Negative Determination of Critical Circumstances; Steel Wire Rope From Mexico

**AGENCY:** International Trade Administration, Import Administration, Department of Commerce.

**EFFECTIVE DATE:** June 20, 1991.

**FOR FURTHER INFORMATION CONTACT:** David J. Goldberger, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-4136.

### Preliminary Negative Determination of Critical Circumstances

The Department of Commerce (the Department) published its preliminary determination of sales at less than fair value in this investigation on April 22, 1991 (56 FR 16317). On May 14, 1991, petitioner alleged that critical circumstances exist with respect to imports of the subject merchandise. A supplement to that allegation was filed on May 28, 1991. Petitioner and respondent, Grupo Industrial Camesa, S.A. de C.V. (Camesa), submitted case briefs on June 3, 1991 to the Department, which included comments on the critical circumstances allegation. On June 4, 1991, we also received comments on the critical circumstances allegation from Cablesa S.A. de C.V., another Mexican manufacturer of the subject merchandise.

In accordance with 19 CFR 353.16(b)(2)(ii), when a critical circumstances allegation is filed later than 20 days before the scheduled date of the preliminary determination (as was done in this case), we must issue our



preliminary determination not later than 30 days after the allegation is filed.

Section 733(e)(1) of the Act provides that the Department will preliminary determine that critical circumstances exist if we determine that there is a reasonable basis to believe or suspect:

(A) (i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 733(e)(1)(B), we generally consider the following factors in determining whether imports have been massive over a short period of time: (1) The volume and value of the imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

In this investigation, we relied on U.S. Commerce Department import data to reach this determination. We did not request monthly shipment data from Camesa because, given that Camesa failed to correct the deficiencies in its questionnaire response that resulted in a preliminary determination based on the best information available, verification of the accuracy of any company-specific shipment data would have been unlikely. Moreover, the Harmonized Tariff Schedule (HTS) numbers under which the subject merchandise enters the United States are exclusive to the subject merchandise and are thus a reliable indicator as to whether or not there have been massive imports of steel wire rope since the filing of the petition.

Pursuant to 19 CFR 353.16(g), we compare the export volume for a minimum three-month period beginning with the month the petition was filed (the comparison period) with a minimum three-month period prior to the filing of the petition (the base period). Since complete import data are available to extend the comparison period to five months, we compared that five-month period to a five-month base period.

Petitioner has argued that we should include the month prior to filing of the petition, October 1990, in the comparison period, rather than the base period, contending that the Mexican producers of the subject merchandise had prior knowledge, through petitioner's extensive market research activities, that an antidumping petition

would be filed. Thus, petitioner contends that the Mexican producers capitalized on this advance knowledge and shipped large quantities of the merchandise as early as October 1990 in order to avoid prospective antidumping duties. We find that there is no information on the record, apart from petitioner's claim, to support the contention that Mexican producers had prior knowledge of the petition. Consequently, we have not changed our base or comparison periods.

Our analysis of the imports of steel wire rope from Mexico shows that the volume of imports increased by less than five percent from the base period to the comparison period. Under 19 CFR 353.16(f)(2), unless imports of the subject merchandise have increased by at least 15 percent, we will not consider the imports massive. Consequently, we have found there have not been massive imports of the subject merchandise since the filing of the petition. Therefore, we do not need to consider whether there is a history of dumping or whether importers of steel wire rope knew or should have known that it was being sold at less than fair value. Thus, we preliminary determine that critical circumstances do not exist with respect to imports of steel wire rope from Mexico. We will make a final determination of critical circumstances by July 1, 1991.

#### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination.

#### Public Comment

Since this determination is being made subsequent to the due dates for public comment as published in our notice of preliminary determination of sales at less than fair value, we will accept written comments limited to this preliminary determination on critical circumstances if they are submitted to the Assistant Secretary for Import Administration no later than June 20, 1991.

This determination is published pursuant to section 733(f) of the Act.

Dated: June 13, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-14748 Filed 6-19-91; 8:45 am]

BILLING CODE 3510-DS-M

#### Export Trade Certificate of Review

**ACTION:** Correction.

In notice document 91-11690 beginning on page 22844 in the issue of Friday, May 17, 1991, make the following correction:

On page 22844 in the second column under the section Members (in addition to applicant), revise the member name "Douglas County, Inc." to read "Douglas County, Inc. dba Douglas County Forest Products."

Dated: June 14, 1991.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 91-14695 Filed 6-19-91; 8:45 am]

BILLING CODE 3510-DR-M

#### Applications; for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with subsections 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC.

**Docket Number:** 91-076. **Applicant:**

Wake Forest University, Department of Chemistry, Winston-Salem, NC 27109.

**Instrument:** Stopped-Flow

Spectrofluorimeter, Model DX.17MV/S.

**Manufacturer:** Applied Photophysics

Ltd., United Kingdom. **Intended Use:** The

instrument will be used for research

focussing on the chemistry of

decomposition in aqueous solutions of

N-alkyl-N'-nitro-N-nitrosoquandines

and alkane diazotates. The purpose of

the research project is to understand the

aqueous reaction chemistry of

intermediates that are central to the

bioactivity of a wide range of

carcinogenic and cancer

chemotherapeutic agents. Specific

interest is in the lifetimes of these

species in aqueous solutions and the

mechanisms by which they decompose.

There is the need to know whether there

are conditions—particular reagents or

pH effects—that stimulate the

decomposition of these intermediates. It

is also essential to be able to



characterize the physical nature of the intermediates under the reaction conditions in terms of their ultraviolet and visible absorption spectra for the purposes of identification of these and related species in other reaction types. *Application Received by Commissioner of Customs:* May 14, 1991.

*Docket Number:* 91-077. *Applicant:* Baylor College of Medicine, One Baylor Plaza, Houston, TX 77030. *Instrument:* Automated Breath <sup>13</sup>Carbon Analyser System. *Manufacturer:* Europa Scientific Ltd., United Kingdom. *Intended Use:* The instrument will be used to determine the presence of *Helicobacter pylori* infection in individuals through the use of a non-invasive breath test. Experiments to be conducted deal with the efficacy of selected drugs in the eradication of the organism in order to find a way to prevent relapse of gastric and duodenal ulcers and eliminate the potential for development of gastric carcinoma. In addition, the instrument will be used for hands-on training for postgraduate scientists in the operation of the instrument and interpretation of isotope ratio data. *Application Received by Commissioner of Customs:* May 15, 1991.

*Docket Number:* 91-078. *Applicant:* Michigan State University, Department of Mechanical Engineering, Engine Research Facility, Engineering Building, East Lansing, MI 48824. *Instrument:* Excimer Laser, Model EMC-160T. *Manufacturer:* Lambda Physik, Inc., West Germany. *Intended Use:* The instrument will be used to measure radical species such as OH, CH, CN, NH, NO<sub>x</sub>, SO<sub>2</sub> and liquid/vapor phase of fuel-air mixtures in combustion engine and gas turbines. *Application Received by Commissioner of Customs:* May 20, 1991.

*Docket Number:* 91-080. *Applicant:* National Institutes of Standards and Technology, Nuclear Methods Group, Gaithersburg, MD 20899. *Instrument:* Automatic Sample Changer, Model ASC-50. *Manufacturer:* Tracerlab Instruments, West Germany. *Intended Use:* The instrument will be used with two germanium radioactivity detectors coupled with multi-channel analyzers, which measure the pulse height of gamma-ray emissions from samples made radioactive in the NIST nuclear reactor. The materials or phenomena to be studied include elemental foils for reactor fluence measurement research; trace elements in NIST superconductor materials, both starting materials and the final superconductor; trace elements in biological Standard Reference Materials such as total diet materials and apple leaves; coal fly ash samples for environmental research; and

measurement of ultrahigh precision in trace element analysis through use of high counting rates, and the effect of high count rates on dead time errors. *Application Received by Commissioner of Customs:* May 21, 1991.

*Docket Number:* 91-081. *Applicant:* University of Nebraska, Department of Chemistry, Lincoln, NE 68588-0304. *Instrument:* (2) Computer System for Upgrade of Mass Spectrometers. *Manufacturers:* Kratos Analytical, United Kingdom. *Intended Use:* The instruments are to be integral parts of two mass spectrometers which will be used to obtain (1) high resolution mass spectra of a wide variety of compounds including: Natural products of plant and animal origin and products of chemical synthesis and (2) accurate molecular masses for chemical substances that are not amenable to EI and CI mass spectrometry. *Application Received by Commissioner of Customs:* May 21, 1991.

*Docket Number:* 91-082. *Applicant:* University of North Carolina at Chapel Hill, Department of Biochemistry and Biophysics, Campus Box 7260, Chapel Hill, NC 27599-7260. *Instrument:* Cryogenic Airstream Device. *Manufacturer:* Stoe Diffraction Systems, United Kingdom. *Intended Use:* The instrument will be used for studies of single crystals of proteins and other biological macromolecules by X-ray diffraction at very low temperatures in order to measure their diffraction data with greatly reduced radiation damage. The overall goal of the research is to specify the atomic positions of the non-hydrogen atoms in the structures for the purpose of studying enzyme mechanisms and other questions relevant to biotechnology. *Application Received by Commissioner of Customs:* May 22, 1991.

*Docket Number:* 91-083. *Applicant:* Fox Chase Cancer Center, 7701 Burholme Avenue, Philadelphia, PA 19111. *Instrument:* Electron Microscope, Model EM-900. *Manufacturer:* Carl Zeiss, West Germany. *Intended Use:* The instrument will be used for the study of ultrastructural details of human tumors, normal mortal and immortal human breast epithelial cells in culture, and cells treated with carcinogens or transfected with oncogenes. Investigations will be conducted for identification of (1) the cell of origin of human tumors, (2) the ultrastructural characteristics defining early changes of cell transformation and (3) specific cytoskeletal changes and modifications in cellular organelles relating to a process of cell immortalization, chemical carcinogen-induced transformation, and activation of

oncogenes. In addition, the instrument will be used in courses entitled, "Tumor diagnosis by electron microscopy" to provide pathologists with training in electron microscopy techniques. *Application Received by Commissioner of Customs:* May 23, 1991.

*Docket Number:* 91-084. *Applicant:* University of California, Irvine, 250 Public Service Building, Irvine, CA 92717. *Instrument:* Time Resolved Picosecond Diffraction X-ray Streak Camera. *Manufacturer:* Kentech, United Kingdom. *Intended Use:* The instrument will be used to study the dynamics of structural deformation materials after laser illumination. Properties such as melting, isomerization and lattice deformation will be investigated for the purpose of developing a sensitive picosecond detector and understanding molecular structural changes as a function of time. In addition, the instrument will be used in a course on physical chemistry research on ultrafast spectroscopy to teach the fundamentals of layers and time resolved x-ray diffraction to students and postgraduates. *Application Received by Commissioner of Customs:* June 5, 1991.

Frank W. Creel,  
Director, Statutory Import Programs Staff.  
[FR Doc. 91-14749 Filed 6-19-91; 8:45 am]

BILLING CODE 3510-05-M

## National Oceanic and Atmospheric Administration

### Atlantic Mackerel, Squid, and Butterfish Fisheries

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Notice of approval of an amendment to a fishery management plan.

**SUMMARY:** NOAA announces approval of Amendment 3 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP). The amendment contains definitions of overfishing for Atlantic mackerel, *Loligo* squid, *Illex* squid, and butterfish. No rulemaking is involved in this action.

**EFFECTIVE DATE:** June 13, 1991.

**ADDRESSES:** Copies of the amendment and environmental assessment are available from John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, room 21, 15 Federal Building, 300 S. New Street, Dover, Delaware 19901-6790.

**FOR FURTHER INFORMATION CONTACT:** Paul H. Jones, Resource Management Specialist, 508-281-9273.



**SUPPLEMENTARY INFORMATION:** The mackerel, squid, and butterfish fisheries are managed under the FMP prepared by the Mid-Atlantic Fishery Management Council (Council), and its implementing regulations at 50 CFR part 655 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act), as amended. In accordance with the Guidelines for Fishery Management Plans (50 CFR part 602), Amendment 3 adds to the FMP an objective and measurable definition of overfishing.

Amendment 3 was submitted by the Council for review and approval by the Secretary of Commerce (Secretary) on March 13, 1991. A notice of availability of Amendment 3 and request for comments was published in the *Federal Register* on March 21, 1991 (56 FR 11983). No comments were received.

Under the FMP, as revised by Amendment 3, overfishing is defined as follows:

#### Atlantic Mackerel

Overfishing is defined as the catch of Atlantic mackerel exceeding the annual quota for the species. The FMP provides for setting of annual quota for the species. The FMP provides for setting of annual quotas through quantitative biological parameters. The Initial Optimum Yield, Domestic Annual Harvest, Domestic Annual Processing, Joint Venture Processing, and the Total Allowable Level of Foreign Fishing are determined yearly by the Director, Northeast Region, NMFS, (Regional Director) and the Council based on the best scientific information available. The procedures for setting of annual quotas are intended to prevent overfishing.

#### Loligo and Illex Squid, and Butterfish

Overfishing for *Loligo pealei*, *Illex illecebrosus*, and butterfish is defined as occurring for a species when the 3-year moving average of pre-recruits from the Northeast Fisheries Center's autumn bottom trawl survey (mid-Atlantic to Georges Bank) falls within the lowest quartile of the time series (1967 to present for *Loligo*, 1968 to present for *Illex* and butterfish). This means, for example, that when the 1990 index is available (and thus a 24-year time series exists) that the sixth lowest annual index will be compared to the average of the 1988, 1989, and 1990 indices. If the 3-year average is below the sixth lowest index, overfishing will be defined as occurring. Quotas for these species are set annually by the Regional Director in accordance with the FMP. Annual Quotas can be set within the range of 0 to 44,000 metric tons (mt) for *Loligo*, 0 to

33,000 mt for *Illex*, and 0 to 16,000 mt for butterfish, based on the estimated maximum sustainable yields (MSY).

The basic assumption for these definitions is that in periods of sustained poor recruitment (a 3-year moving average of years), spawning stock, and thus fishable biomass, will decline. In order to reduce the harvest rate of spawners during periods of low spawning biomass, allowable landings (relative to the historical average as the basis for MSY and acceptable biological catch calculations) will be reduced.

The Northeast Fisheries Center NMFS (Center), has certified these definitions to be acceptable under the revised guidelines for fishery management plans with the following clarification: That the "annual quota" mentioned in the definition refers to the allowable biological catch (ABC), which in turn is a portion of the largest possible catch in the upcoming fishing years from the latest agreed upon stock assessment (as produced by the center), while maintaining a spawning stock biomass of 600,000 mt in the following year. The overfishing definition, therefore, is based on maintaining a minimum spawning stock biomass of 600,000 mt while allowing for a predicted Canadian catch and a fishing mortality rate that fluctuates according to the size of the stock. The Council concurred in this interpretation and will include it in Amendment 4 to the FMP, which is currently under preparation.

#### Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), determined that Amendment 3 is necessary for the conservation and management of the Atlantic mackerel, squid, and butterfish fisheries and that it is consistent with the Magnuson Act and other applicable law.

Because Amendment 3 requires no implementing regulations, 5 U.S.C., section 553 of the Administrative Procedure Act, E.O. 12291, and the Regulatory Flexibility Act do not apply to this notice of approval.

This amendment does not contain collection-of-information requirements subject to the Paperwork Reduction Act.

The Council prepared an environmental assessment (EA) for this amendment that discusses the impact on the environment. Based on the EA, the Assistant Administrator found that there will be no significant impact on the environment as a result of this action. A copy of the EA and findings of no significant impact may be obtained from the Council (see ADDRESSES).

This amendment does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

The Council determined that Amendment 3 is consistent to the maximum extent practicable with the approved coastal zone management programs of the applicable states. Connecticut, Delaware, Massachusetts, New Hampshire, New Jersey, New York, and Pennsylvania submitted letters of agreement with this determination. None of the other states commented, and; therefore, consistency is inferred.

Authority: 16 U.S.C. 18701 *et seq.*

Dated: June 13, 1991.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries  
National Marine Fisheries Service.

[FR Doc. 91-14856 Filed 6-19-91; 8:45 am]

BILLING CODE 3510-22-M

## DEPARTMENT OF ENERGY

### Assistant Secretary for International Affairs and Energy Emergencies

#### Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Japan concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/JA(EU)-55, for the transfer of fuel elements for the JRR-3 research reactor from the Federal Republic of Germany to Japan, containing 66.875 kilograms of uranium, enriched to 19.95 percent in the isotope uranium-235.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.



Issued in Washington, DC on June 17, 1991.  
**Richard H. Williamson,**  
*Associate Deputy Assistant Secretary for  
 International Affairs.*  
 [FR Doc. 91-14717 Filed 6-19-91; 8:45 am]  
 BILLING CODE 6450-01-M

## Federal Energy Regulatory Commission

[Docket Nos. ER91-483-000, et al.]

### Arizona Public Service Company, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

June 13, 1991.

Take notice that the following filings have been made with the Commission:

#### 1. Arizona Public Service Company

[Docket No. ER91-483-000]

Take notice that on June 10, 1991, Arizona Public Service Company (Arizona) tendered for filing an Off-Peak Power Sales Agreement between Arizona Power Pooling Association (APPA) and Arizona executed on April 11, 1991.

This Agreement provides for the sale of seasonal off-peak capacity and energy by Arizona and APPA for a period of ten years commencing on June 1, 1991.

Copies of this filing are being served upon APPA, Electric District No. 2, and the Arizona Corporation Commission.

*Comment date:* June 28, 1991, in accordance with Standard Paragraph E at the end of this notice.

#### 2. Pennsylvania Electric Company, et al.

[Docket No. ER91-482-000]

Take notice that on June 10, 1991, Pennsylvania Electric Company, Metropolitan Edison Company and Jersey Central Powers & Light Company (collectively, the GPU Companies) tendered for filing a new Schedule 5.011 to the GPU System Power Pooling Agreement as a change in rate schedule. Schedule 5.011 provides for transmission service charges among the GPU Companies for intrasystem transmission services under the Power Pooling Agreement to be provided for the delivery of capacity and energy being purchased by Metropolitan Edison Company and Jersey Central Power & Light Company from Cleveland Electric Illuminating Company's share of the Seneca Pumped Storage Hydro Electric Plan under a certain Power Supply Agreement dated January 3, 1990, which has been accepted for filing in Docket No. ER90-588. The GPU Companies have requested a waiver of the Commission's Regulations to permit the

rate schedule to become effective May 1, 1991, coincident with the effective date of sales under the Seneca Power Supply Agreement.

Copies of the filing have been served on the Pennsylvania Public Utility Commission and Board of Public Utilities of the State of New Jersey.

*Comment date:* June 28, 1991, in accordance with Standard Paragraph E at the end of this notice.

#### 3. Orange and Rockland Utilities, Inc.

[Docket No. ER88-112-000]

Take notice that on June 7, 1991, Orange and Rockland Utilities, Inc. (Orange and Rockland) tendered for filing an amendment to Orange and Rockland's previous filing of March 27, 1991, pursuant to the Federal Energy Docket No. ER88-112-000, of an executed Service Agreement between Orange and Rockland and Delaware Valley Cement Block Co., Inc.,

*Comment date:* June 28, 1991, in accordance with Standard Paragraph E at the end of this notice.

#### 4. Pennsylvania Power & Light Company

[Docket No. ER91-481-000]

Take notice that on June 7, 1991 Pennsylvania Power & Light Company (PP&L) tendered for filing a Capacity Credit Sales Agreement (Agreement) between PP&L and Baltimore Gas and Electric Company (BG&E), which complements the Capacity and Energy Sales Agreement, dated January 28, 1988, as supplemented by a First Supplemental Agreement dated August 10, 1988, as supplemented by a Second Supplemental Agreement dated May 31, 1989, and as further supplemented by the Third Supplemental Agreement dated May 31, 1991, between PP&L and BG&E (the Capacity and Energy Sales Agreement) on file with the Commission as the Company's Rate Schedule FERC No. 92, as supplemented. The Agreement provides for the sale by PP&L to BG&E's use in the Pennsylvania-New Jersey-Maryland (PJM) Interconnection's planned and/or accounted for installed capacity accounting.

PP&L requests waiver of the notice requirements of Section 205 of the Federal Power Act and Section 35.3 of the Commission's Regulations so that the proposed rate schedule can be made effective as of June 10, 1991. Service under the Agreement is expected to commence on June 10, 1991.

PP&L states that a copy of its filing was served on BG&E, the Pennsylvania Public Utility Commission, and the Maryland Public Service Commission.

*Comment date:* June 28, 1991, in accordance with Standard Paragraph E at the end of this notice.

#### 5. Jersey Central Power & Light Company

[Docket No. ER91-480-000]

Take notice that on June 7, 1991, Jersey Central Power & Light Company tendered for filing proposed changes in its currently effective rate schedule for supplemental and wheeling service to its wholesale customers and its contract for service to Allegheny Electric Cooperative, Inc. Jersey Central states that the charges produce additional revenues of \$3,022,349 on an annual basis.

JCP&L requests an effective date of August 7, 1991.

Copies of the filing were served upon each customer and upon the New Jersey Board of Public Utilities.

*Comment date:* June 28, 1991, in accordance with Standard Paragraph E at the end of this notice.

#### 6. Southern California Edison Company

[Docket No. ER79-150-017]

Take notice that on June 5, 1991, Southern California Edison Company (SCE) tendered for filing a Refund Report in the above-referenced docket pursuant to the Commission's order dated April 3, 1991.

*Comment date:* June 27, 1991, in accordance with Standard Paragraph E end of this notice.

#### 7. D C Tie Inc.

[Docket No. ER91-435-000]

Take notice that on June 11, 1991, tendered for filing pursuant to Rule 215 of the Commission's Rules of Practice and Procedure, (18 CFR 385.215 (1990)), an Amendment to its Petition filed on May 10, 1991. D C Tie's original Petition for Disclaimer of Jurisdiction Under section 201 of the Federal Power Act, Waivers, Blanket Approvals, and Order Accepting Rate Schedule was filed with the Commission on May 10, 1991. The original Petition sought certain waivers and blanket approvals under the Federal Power Act. In addition, D C Tie Inc., sought approval of its initial rate schedule, to be effective on July 10, 1991. The rate schedule provided for the sale of energy and capacity at agreed prices subject to a ceiling equal to the purchaser's alternative cost of energy. No contracts have been signed to the proposed rate schedule.

The Amendment to the Petition of D C Tie Inc., provides additional information which was requested by the Rate Filings Branch of the Commission. The additional information relates to the



following areas: the ownership structure of D C Tie Inc.; the ownership's affiliation of lack of affiliation with any utility or inputs of the utility industry; and the ownership's agreements or lack of agreements with potential buyers or sellers. This Amendment also requests that the Commission waive the notice requirement and retain the July 10, 1991 effective date requested in the original Petition.

*Comment date:* June 27, 1991, in accordance with Standard Paragraph E at the end of this notice.

#### 8. Interstate Power Company

[Docket No. ES91-35-000]

Take notice that on June 6, 1991, Interstate Power Company ("Applicant") filed an application with the Federal Energy Regulatory Commission pursuant to 204 of the Federal Power Act seeking authorization to issue not more than \$60 million of short-term promissory notes and/or commercial paper on or before December 31, 1992, with a final maturity date no later than December 31, 1993.

*Comment date:* July 5, 1991 in accordance with Standard Paragraph E at the end of this notice.

#### Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Casbell,

Secretary.

[FR Doc. 91-14675 Filed 6-19-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER91-479-000, et al.]

#### SEMASS Partnership, et al. Electric Rates, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

#### 1. SEMASS Partnership

[Docket No. ER91-479-000]

June 11, 1991.

Take notice that on SEMASS Partnership (SEMASS), a qualifying small power production facility on June 6, 1991, tendered for filing as a rate schedule change an executed Second Amendment to power Sale Agreement for SEMASS Expansion dated as of May 24, 1991 (the "Second Amendment"), between SEMASS and Commonwealth Electric Company (CEC). The Second Amendment relates to the Power Sale Agreement for SEMASS Expansion dated January 15, 1988 (the "PSA-II") between SEMASS and CEC which was accepted for filing by the Commission on February 16, 1989 (ER89-174-000). The PSA-II was previously amended by a certain Amendment to power Sale Agreement for SEMASS Expansion dated as of March 14, 1990 between SEMASS and CEC which was accepted for filing by the Commission on May 18, 1990 (ER90-317-030). The Second Amendment amends two provisions of the PSA-II. The first amended provision requires SEMASS to deliver to CEC a letter of credit which CEC may draw upon if SEMASS does not give the notice to proceed under the construction contract for the expansion unit by December 31, 1991. The second amended provision extends the date by which the in-service date for the expansion unit must occur to July 1, 1995 and requires SEMASS to pay monthly penalties in the event the in-service date does not occur by May 1, 1994. SEMASS is subject to the Commission's ratemaking jurisdiction because its power production capacity is in excess of 30 megawatts. SEMASS also requests waiver of the Commission's regulations requiring that rate schedules be submitted no more than 120 days before the rates are to become effective.

The Second Amendment is necessary because of unforeseen delays which have occurred in the development of the expansion unit to which the PSA-II relates.

Copies of the filing were served upon CEC and the Massachusetts Department of Public Utilities.

*Comment date:* June 26, 1991, in accordance with Standard Paragraph E at the end of this notice.

#### 2. PSI Energy, Inc.

[Docket No. ER91-474-000]

June 11, 1991.e

Take notice that PSI Energy, Inc. (PSI) on June 3, 1991, tendered for filing changes to the rates for certain of its services pursuant to the Interconnection Agreement between PSI and Northern

Indiana Public Service Company (NIPSCO), dated January 1, 1974.

The filed changes modify the rates for services provided by PSI under the following Service Schedules of the Interconnection Agreement:

1. Service Schedule A—Emergency Service
2. Service Schedule B—Interchange Power
3. Service Schedule E—Short Term Power

Copies of the filing were served on the Northern Indiana Public Service Company and the Indiana Utility Regulatory Commission.

PSI has requested a waiver of the Commission's Rules and Regulations to permit the proposed rates for services to become effective April 15, 1991.

*Comment date:* June 26, 1991, in accordance with Standard Paragraph E at the end of this notice.

#### 3. Dr. Kathryn A. McCarthy

[Docket No. ID-2633-000]

June 11, 1991.

Take notice that on June 4, 1991, Dr. Kathryn A. McCarthy (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Director, Massachusetts Electric Company  
Director, State Mutual Life Assurance Company of America

*Comment date:* June 27, 1991, in accordance with Standard Paragraph E at the end of this notice.

#### 4. The Washington Water Power Company

[Docket No. ER91-476-000]

June 11, 1991.

Take notice that on June 3, 1991, The Washington Water Power Company (WWP), tendered for filing a Firm Energy Sale Agreement between WWP and Southern California Edison Company. WWP requests that the Commission (a) accept the Agreement for filing, effective as of February 1, 1991, and (b) grant a waiver of notice pursuant to 18 CFR 35.11, to allow the filing of the Agreement less than 60 days prior to the date on which service under the Agreement is to commence.

A copy of the filing was served upon Southern California Edison Company.

*Comment date:* June 26, 1991, in accordance with Standard Paragraph E at the end of this notice.



**5. United Illuminating Company**

[Docket Nos. ER91-265-000 and ER91-266-000]

June 11, 1991.

Take notice that on May 22, 1991, United Illuminating Company (UI) tendered for filing an amendment in support of its original rate filings in the above referenced dockets. UI states that the amendment provides answers to questions asked by the Commission's staff.

*Comment date:* June 26, 1991, in accordance with Standard Paragraph E at the end of this notice.

**6. Tampa Electric Company**

[Docket No. EC91-15-000]

June 11, 1991.

Take notice that on June 6, 1991, Tampa Electric Company (Tampa Electric) tendered for filing an application for Commission authorization to purchase from the Sebring Utilities Commission (Sebring) certain transmission facilities with a value in excess of \$50,000. The facilities include 21.5 miles of 69 kV transmission line and certain equipment and other property at the Phillips and Diner Lake substations.

Tampa Electric states that the transmission facilities will continue to be used to serve Sebring's municipal distribution system, and to transmit excess power from Tampa Electric's Phillips and Dinner Lake generating plants.

Copies of the application have been served on Sebring and the Florida Public Service Commission.

*Comment date:* June 27, 1991, in accordance with Standard Paragraph E at the end of this notice.

**7. New England Power Company**

[Docket Nos. ER90-525-000 and ER90-526-000]

June 11, 1991.

Take notice that on June 7 1991, New England Power Company (NEP) filed a Compliance Refund Report and supporting documentation that effectuates the terms of an uncontested settlement agreement in the W-12(a) rate proceeding in the referenced dockets.

NEP states that appropriate refunds, including interest, were made on May 22, 1991 for the period January 1, 1991 through March 31, 1991.

*Comment date:* June 26, 1991, in accordance with Standard Paragraph E at the end of this notice.

**8. Massachusetts Municipal Wholesale Electric Company v. Northeast Utilities Service Company**

[Docket No. EL91-36-000]

June 11, 1991.

Take notice that on May 28, 1991, the Massachusetts Municipal Wholesale Electric Company (MMWEC) tendered for filing a complaint against Northeast Utilities Service Company (NU), in its capacity as agent for the Connecticut Light and Power Company and Western Massachusetts Electric Company.

In its complaint, MMWEC challenges the imposition by NU (through New England Power Company) of "capability responsibility" or "tie line" adjustment charges, which are included in the Non-firm Agreement. In addition, to requesting that complaint proceedings be initiated with respect to the tie line adjustment charge, MMWEC requests that the issue be consolidated with pending review of the identical tie line adjustment in Northeast Utilities Service Company, FERC Docket Nos. ER90-390-000, *et al.*

*Comment date:* July 11, 1991, in accordance with Standard Paragraph E at the end of this notice.

**9. Delano Energy Company Inc.**

[Docket No. QF84-52-002]

June 11, 1991.

On May 31, 1991, Delano Energy Company Inc. (Applicant) of 101A First Avenue, Waltham, Massachusetts 02254-9047 submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to Section 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility is located in Kern County, California. The primary energy source is biomass in the form of orchard and vineyard prunings, cotton ginnings, almond shells, wood fuels and other agricultural residues. The maximum net electric power production capacity is 49.9 MW.

The original certification was issued on March 23, 1984 (26 FERC 62,302. The instant recertification is requested due to a change in ownership. On December 4, 1990, the Applicant's right, title and interest to the facility were transferred to Manufacturers Hanover Trust Company of California, not in its individual capacity but as owner trustee for the benefit of Westinghouse Credit Corporation.

*Comment date:* July 22, 1991, in accordance with Standard Paragraph E at the end of this notice.

**10. Cogentrix of Mayaguez, Inc.**

[Docket No. QF91-154-000]

June 11, 1991.

On May 30, 1991, Cogentrix of Mayaguez, Inc. of 9405 Arrowpoint Boulevard, Charlotte, North Carolina 28273 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to Section 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Mayaguez, Puerto Rico. The facility will consist of two coal-fired boilers and two extraction/condensing steam turbine generators. Thermal energy recovered from the facility will be used in the food processing plants for the cooking, washing and sterilizing operations associated with the processing and canning of tuna fish. The primary energy source will be coal. The net electric power production capacity will be 318.24 megawatts. Installation of the facility will begin after January 1, 1994.

*Comment date:* July 22, 1991, in accordance with Standard Paragraph E at the end of this notice.

**11. Central Vermont Public Service Corporation**

[Docket No. ER91-463-000]

June 12, 1991.

Take notice that on May 31, 1991, Central Vermont Public Service Corporation (CVPS) tendered for filing the 1990 Cost Report required under Article 2.4 on Second Revised Sheet No. 18 of FERC Electric Tariff, Original Volume No. 3 of CVPS.

*Comment date:* June 26, 1991, in accordance with Standard Paragraph E at the end of this notice.

**12. Central Vermont Public Service Corporation**

[Docket No. ER91-462-000]

June 12, 1991.

Take notice that on May 31, 1991, Central Vermont Public Service Corporation (CVPS) tendered for filing the 1990 Cost Report required under Paragraph Q-1 on Original Sheet No. 18 of the RS-2 rate schedule under which CVPS sells electric power to Connecticut Valley Electric Company Inc.

*Comment date:* June 26, 1991, in accordance with Standard Paragraph E at the end of this notice.



**13. Central Vermont Public Service Corporation**

[Docket No. ER91-461-000]

June 12, 1991.

Take notice that on May 31, 1991, Central Vermont Public Service Corporation (CVPS) tendered for filing the 1990 Cost Report required under Article 2.3(A) on Original Sheet No. 21 of FERC Electric Tariff, Original Volume No. 4, of CVPS.

*Comment date:* June 26, 1991, in accordance with Standard Paragraph E at the end of this notice.

**Standard Paragraph**

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

*Secretary.*

[FR Doc. 91-14676 Filed 6-19-91; 8:45 am]

BILLING CODE 6717-01-M

**[Project No. 2282-004—Maine]****Central Maine Power Co.; Availability of Environmental Assessment**

June 14, 1991.

In accordance with the National Environmental Policy Act of 1969 and the Federal Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) has reviewed the application for amendment of license at the Gulf Island-Deer Rips Project to allow Central Maine Power Company (licensee) to grant an easement to the Joint Venture for Gulf Island Oxygenation Project (Joint Venture). The easement will allow the Joint Venture to construct an oxygen diffuser system in the Androscoggin River in order to meet state water quality standards.

The staff of OHL's Division of Project Compliance and Administration has prepared an Environmental Assessment (EA) for the proposed action. In the EA,

the staff concludes that approval of the amendment would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Reference and Information Center, room 3308, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

*Secretary.*

[FR Doc. 91-14680 Filed 6-19-91; 8:45 am]

BILLING CODE 6717-01-M

**[Project No. 663-001, Puerto Rico]****Puerto Rico Electric Power Authority; Availability of Environmental Assessment**

June 14, 1991.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a major license for the existing Rio Blanco Project located on the Rio Blanco in the municipality of Naguabo, near Naguabo, Puerto Rico, and has prepared an Environmental Assessment (EA) for the project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the project and has concluded that approval of the project would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3308, of the Commission's offices at 941 North Capitol Street, N.E., Washington, DC 20426.

Lois D. Cashell,

*Secretary.*

[FR Doc. 91-14683 Filed 6-19-91; 8:45 am]

BILLING CODE 6717-01-M

**[Docket Nos. ST91-8463-000 through ST 91-8888]****Red River Pipeline; Self Implementing Transactions**

[June 14, 1991].

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to part 284 of the Commission's regulations, sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA)

and section 5 of the Outer Continental Shelf Land Act.<sup>1</sup>

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction.

A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's regulations and section 311(a)(2) of the NGPA.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to section 284.163 of the Commission's regulations and section 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A "G-S" indicates transportation by interstate pipelines on behalf of shippers other than interstate pipelines pursuant to section 284.223 and a blanket certificate issued under section 284.221 of the Commission's regulations.

A "G-LT" or "G-LS" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A "G-HT" or "G-HS" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under

<sup>1</sup> Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's regulations.



§ 284.224 of the Commission's regulations.

A "K" indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of another interstate pipeline pursuant

to § 284.303 of the Commission's regulations.

A "K-S" indicates transportation of natural gas on the Outer Continental Shelf by an intrastate pipeline on behalf of shippers other than interstate

pipelines pursuant to § 284.303 of the Commission's regulations

Lois D. Cashell,  
Secretary.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity	Affiliated Y/N	Date commenced	Projected termination date
ST91-8463	Red River Pipeline	KN Energy, Inc.	05-01-91	C	100,000	N	04-01-91	Indefinite.
ST91-8464	Nycotex Gas Transport	UGI Corp.	05-01-91	C	10,000	N	04-01-91	Indefinite.
ST91-8465	Valero Transmission, L.P.	Tennessee Gas Pipeline Co.	05-01-91	C	15,000	N	04-01-91	04-30-91.
ST91-8466	Rocky Mountain Natural Gas Co.	Northwest Pipeline Corp.	05-01-91	C	10,000	N	05-12-91	12-31-93.
ST91-8467	Delhi Gas Pipeline Corp.	Transwestern Pipeline Co.	05-01-91	C	100,000	N	04-01-91	Indefinite.
ST91-8468	Delhi Gas Pipeline Corp.	El Paso Natural Gas Co.	05-01-91	C	2,500	N	04-01-91	Indefinite.
ST91-8469	Texas Gas Transmission Corp.	Western Kentucky Gas Co.	05-01-91	B	123	N	04-18-91	Indefinite.
ST91-8470	Texas Gas Transmission Corp.	Western Kentucky Gas Co.	05-01-91	B	541	N	04-18-91	Indefinite.
ST91-8471	Texas Gas Transmission Corp.	Western Kentucky Gas Co.	05-01-91	B	210	N	04-18-91	Indefinite.
ST91-8472	Texas Gas Transmission Corp.	Western Kentucky Gas Co.	05-01-91	B	315	N	04-11-91	Indefinite.
ST91-8473	National Fuel Gas Supply Corp.	Power Authority of New York State.	05-01-91	G-S	200,000	N	04-02-91	07-31-91.
ST91-8474	National Fuel Gas Supply Corp.	Trinity Pipeline Inc.	05-01-91	G-S	60,000	N	04-03-91	08-01-91.
ST91-8475	National Fuel Gas Supply Corp.	Reliance Gas Marketing Co.	05-01-91	G-S	20,000	N	04-02-91	07-31-91.
ST91-8476	National Fuel Gas Supply Corp.	Atlas Gas Marketing, Inc.	05-01-91	G-S	14,142	N	04-01-91	07-30-91.
ST91-8477	National Fuel Gas Supply Corp.	Meridian Marketing and Transportation Corp.	05-01-91	G-S	1,000	N	04-01-91	07-30-91.
ST91-8478	National Fuel Gas Supply Corp.	Appalachian Gas Sales, Inc.	05-01-91	G-S	20,000	N	04-05-91	08-03-91.
ST91-8480	National Fuel Gas Supply Corp.	Poco Petroleum Ltd.	05-01-91	G-S	100,000	N	04-01-91	07-30-91.
ST91-8481	National Fuel Gas Supply Corp.	O&R Energy, Inc.	05-01-91	G-S	50,000	N	04-04-91	08-02-91.
ST91-8482	National Fuel Gas Supply Corp.	Aquila Energy Marketing Corp., Inc.	05-01-91	G-S	150,000	N	04-03-91	08-01-91.
ST91-8483	National Fuel Gas Supply Corp.	Brooklyn Interstate Nat. Gas Corp.	05-01-91	G-S	50,000	N	04-05-91	08-03-91.
ST91-8484	National Fuel Gas Supply Corp.	Graham Energy Marketing Corp.	05-01-91	G-S	100,000	N	04-04-91	08-02-91.
ST91-8485	National Fuel Gas Supply Corp.	Niagara Gas Transmission	05-01-91	G-S	1,000	N	04-04-91	08-02-91.
ST91-8486	National Fuel Gas Supply Corp.	Boston Gas Co.	05-01-91	G-S	100,000	N	04-03-91	08-01-91.
ST91-8487	National Fuel Gas Supply Corp.	United Refining Co.	05-01-91	G-S	50,000	N	04-01-91	07-30-91.
ST91-8495	National Fuel Gas Supply Corp.	Meridian Oil Trading Inc.	05-01-91	G-S	100,000	N	04-03-91	08-01-91.
ST91-8498	National Fuel Gas Supply Corp.	Chautauque Energy Inc.	05-01-91	G-S	20,000	N	04-03-91	08-01-91.
ST91-8499	National Fuel Gas Supply Corp.	Polaris Pipeline Corp.	05-01-91	G-S	24,137	N	04-12-91	08-10-91.
ST91-8500	National Fuel Gas Supply Corp.	BP Gas Inc.	05-01-91	G-S	25,000	N	04-05-91	08-03-91.
ST91-8501	National Fuel Gas Supply Corp.	Energy Marketing Exchange, Inc.	05-01-91	G-S	88,550	N	04-04-91	08-02-91.
ST91-8503	National Fuel Gas Supply Corp.	Northridge Petroleum Marketing, Inc.	05-01-91	G-S	20,000	N	04-03-91	08-01-91.
ST91-8504	National Fuel Gas Supply Corp.	Ocean State Power L.P.	05-01-91	G-S	50,000	N	04-02-91	07-31-91.
ST91-8505	National Fuel Gas Supply Corp.	V.H.C. Gas Systems	05-01-91	G-S	100,000	N	04-04-91	08-02-91.
ST91-8509	National Fuel Gas Supply Corp.	V.H.C. Gas Systems	05-01-91	G-S	100,000	N	04-04-91	08-02-91.
ST91-8511	National Fuel Gas Supply Corp.	Tenneco Corp.	05-01-91	G-S	150,000	N	04-02-91	07-31-91.
ST91-8515	National Fuel Gas Supply Corp.	NJ Natural Gas Co.	05-01-91	G-S	630	N	04-03-91	08-01-91.
ST91-8521	Black Marlin Pipeline Co.	Conoco, Inc.	05-01-91	G-S	20,000	N	11-01-90	02-28-91.
ST91-8522	Natural Gas P/L Co. of America	City of Salem	05-01-91	B	200,000	Y	03-01-91	02-29-96.
ST91-8523	Arkla Energy Resources	Transok, Inc.	05-01-91	B	80,000	Y	01-01-91	Indefinite.
ST91-8524	United Gas Pipe Line Co.	Nerco Oil and Gas, Inc.	05-01-91	G-S	77,250	N	03-15-91	07-13-91.
ST91-8525	United Gas Pipe Line Co.	Nerco Oil and Gas, Inc.	05-01-91	G-S	309	N	03-15-91	07-13-91.
ST91-8526	Texas Eastern Transmission Corp.	Coast Energy Group, Inc.	05-01-91	G-S	35,000	N	04-09-91	08-07-91.
ST91-8527	Texas Eastern Transmission Corp.	Public Service Electric and Gas Co.	05-01-91	G-S	200,000	N	04-10-91	08-08-91.
ST91-8528	Notthorn Natural Gas Co.	Northwestern Public Service Co.	05-01-91	B	100,000	N	04-05-91	Indefinite.
ST91-8529	Notthorn Natural Gas Co.	Eastex Hydrocarbons, Inc.	05-01-91	G-S	100,000	N	04-03-91	08-01-91.
ST91-8530	Transok, Inc.	Phillips Gas Pipeline Co.	05-01-91	C	50,000	N	04-01-91	Indefinite.
ST91-8531	Transok, Inc.	Arkla Energy Resources	05-01-91	C	100,000	N	04-05-91	Indefinite.
ST91-8532	Algonquin Gas Transmission Co.	O & R Energy, Inc.	05-01-91	G-S	100,000	N	04-01-91	07-30-91.
ST91-8533	Algonquin Gas Transmission Co.	Chevron U.S.A., Inc.	05-01-91	G-S	600,000	N	04-02-91	07-31-91.
ST91-8534	Algonquin Gas Transmission Co.	Colonial Gas Co.	05-01-91	B	20,000	N	04-01-91	07-03-91.
ST91-8535	Algonquin Gas Transmission Co.	O & R Energy, Inc.	05-01-91	G-S	100,000	N	04-02-91	07-31-91.
ST91-8536	Tennessee Gas Pipeline Co.	Texas-Ohio Gas, Inc.	05-01-91	G-S	60,000	N	02-06-91	06-06-91.
ST91-8537	Tennessee Gas Pipeline Co.	Fulton Cogeneration Associates	05-01-91	G-S	12,500	N	04-01-91	07-30-91.
ST91-8538	Tennessee Gas Pipeline Co.	Clinton Gas Transmission, Inc.	05-01-91	G-S	1,000	N	04-02-91	07-31-91.
ST91-8539	Tennessee Gas Pipeline Co.	Ball Incon Glass Packaging Corp.	05-01-91	G-S	600	N	04-01-91	07-30-91.
ST91-8540	Panhandle Eastern Pipe Line Co.	Access Energy Corp.	05-01-91	G-S	30,000	N	10-01-91	Indefinite.
ST91-8541	Panhandle Eastern Pipe Line Co.	Panda Resources, Inc.	05-01-91	G-S	25,000	N	10-01-91	Indefinite.
ST91-8542	Panhandle Eastern Pipe Line Co.	Mountain Iron & Supply Co.	05-01-91	G-S	10,000	Y	04-16-91	08-14-91.
ST91-8543	Panhandle Eastern Pipe Line Co.	Two Rivers Oil and Gas Co., Inc.	05-01-91	G-S	150	N	04-01-91	07-30-91.
ST91-8544	Panhandle Eastern Pipe Line Co.	Aquila Gas Marketing, Inc.	05-01-91	G-S	100,000	Y	04-01-91	07-30-91.
ST91-8545	Panhandle Eastern Pipe Line Co.	Associated Natural Gas, Inc.	05-01-91	G-S	20,000	N	04-01-91	07-30-91.
ST91-8546	CNG Transmission Corp.	American Central Gas	05-01-91	G-S	75,000	N	04-16-91	08-14-91.
ST91-8547	CNG Transmission Corp.	Fulton Cogen Association	05-01-91	G-S	12,300	N	04-01-91	07-30-91.
ST91-8548	CNG Transmission Corp.	Hope Gas, Inc.	05-01-91	B	4,000	Y	04-04-91	Indefinite.
ST91-8549	CNG Transmission Corp.	Access Energy	05-01-91	G-S	750	N	04-03-91	08-01-91.



Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity	Affiliated Y/N	Date commenced	Projected termination date
ST91-8550	CNG Transmission Corp.	Hope Gas, Inc.	05-01-91	B	100	Y	04-11-91	Indefinite.
ST91-8551	CNG Transmission Corp.	Wabash Alloy Division-Connell	05-01-91	G-S	5,000	N	04-11-91	08-09-91.
ST91-8552	CNG Transmission Corp.	Bethlehem Steel	05-01-91	G-S	50,000	N	04-02-91	07-31-91.
ST91-8553	CNG Transmission Corp.	Citizens Gas Supply	05-01-91	G-S	25,000	N	04-03-91	08-01-91.
ST91-8554	CNG Transmission Corp.	Citizens Gas Supply	05-01-91	G-S	25,000	N	04-03-91	08-01-91.
ST91-8555	CNG Transmission Corp.	American Central Gas	05-01-91	G-S	75,000	N	04-16-91	08-14-91.
ST91-8556	CNG Transmission Corp.	Indeck Energy Services	05-01-91	G-S	5,000	N	04-01-91	07-30-91.
ST91-8557	CNG Transmission Corp.	Bethlehem Steel	05-01-91	G-S	8,000	N	04-08-91	08-06-91.
ST91-8558	Tejas Gas Corp.	Natural Gas P/L Co. of America	05-02-91	C	15,000	N	04-01-91	Indefinite.
ST91-8559	East Texas Gas Systems	Texas Eastern Transmission	05-02-91	C	100,000	N	04-01-91	Indefinite.
ST91-8560	Florida Gas Transmission Co.	Louis Dreyfus Energy Corp.	05-02-91	G-S	100,000	N	04-12-91	08-09-91.
ST91-8561	Willison Basin Interstate P/L Co.	Inland Oil & Gas Corp.	05-02-91	G-S	2,714	N	04-04-91	08-01-91.
ST91-8562	Tennessee Gas Pipeline Co.	East Ohio Gas Corp.	05-02-91	B	3,000	N	04-08-91	Indefinite.
ST91-8563	Tennessee Gas Pipeline Co.	Direct Gas Supply Corp.	05-02-91	G-S	51,150	N	04-02-91	07-31-91.
ST91-8564	Natural Gas P/L Co. America	Bishop Pipeline Corp.	05-02-91	G-S	50,000	N	04-03-91	08-01-91.
ST91-8565	Natural Gas P/L Co. America	Eastex Hydrocarbons, Inc.	05-02-91	G-S	50,000	N	04-04-91	08-02-91.
ST91-8566	Natural Gas P/L Co. America	Kerr-McGee Corp.	05-02-91	G-S	50,000	N	04-05-91	08-03-91.
ST91-8567	Columbia Gulf Transmission Co.	North Penn Gas Co.	05-02-91	B	5,000	N	01-01-91	Indefinite.
ST91-8568	Colorado Interstate Gas Co.	K N Gas Marketing, Inc.	05-02-91	G-S	119,000	N	04-07-91	08-05-91.
ST91-8569	Colorado Interstate Gas Co.	Northern Illinois Gas Co.	05-02-91	B	50,000	N	04-11-91	Indefinite.
ST91-8570	Transcontinental Gas P/L Corp.	Citizens Gas Supply Corp.	05-03-91	G-S	250,000	N	07-01-91	10-28-91.
ST91-8571	Enogex, Inc.	Arkla Energy Resources	05-03-91	C	50,000	N	04-24-91	Indefinite.
ST91-8572	Northern Natural Gas Co.	Llano, Inc.	05-03-91	B	20,000	N	04-11-91	Indefinite.
ST91-8573	Natural Gas P/L Co. of America	Bridgegas U.S.A., Inc.	05-03-91	G-S	200,000	N	04-06-91	08-04-91.
ST91-8574	Tennessee Gas Pipeline Co.	Southern Connecticut Gas Co.	05-03-91	B	56,000	N	04-19-91	Indefinite.
ST91-8575	Tennessee Gas Pipeline Co.	Equitable Petroleum Corp.	05-03-91	B	1,700	N	04-26-91	Indefinite.
ST91-8576	Great Lakes Gas Transmission Co.	Utilicorp United, Inc.	05-06-91	G-S	1,266	N	04-01-91	07-29-91.
ST91-8577	Viking Gas Transmission Co.	Triumph Gas Marketing Co.	05-06-91	G-S	30,000	N	04-24-91	08-22-91.
ST91-8578	Tennessee Gas Pipeline Co.	Berkshire Gas Co.	05-06-91	B	8,000	N	12-22-89	Indefinite.
ST91-8579	Black Marlin Pipeline Co.	Northern Natural Gas Co.	05-06-91	B	100,000	Y	04-12-91	Indefinite.
ST91-8580	Northern Natural Gas Co.	Union Pacific Fuels, Inc.	05-06-91	G-S	88,457	N	04-18-91	08-16-91.
ST91-8581	Transwestern Pipeline Co.	Mewbourne Oil Co.	05-06-91	G-S	50,000	N	05-01-91	08-29-91.
ST91-8582	Enogex, Inc.	Panhandle Eastern Pipeline Co.	05-06-91	C	10,000	N	04-27-91	Indefinite.
ST91-8583	Panhandle Eastern P/L Co.	Central Illinois Public Service Co.	05-06-91	B	13,725	N	04-01-91	Indefinite.
ST91-8584	Williams Natural Gas Co.	Rangeline Corp.	05-06-91	G-S	250	N	04-03-91	08-01-91.
ST91-8585	United Gas Pipe Line Co.	Bishop Pipeline Corp.	05-06-91	G-S	41,200	N	04-21-91	08-19-91.
ST91-8586	Gas Company of New Mexico	El Paso Natural Gas Co.	05-06-91	G-HT	16,500	N	04-01-91	04-30-91.
ST91-8587	Gas Company of New Mexico	El Paso Natural Gas Co.	05-06-91	G-HT	4,000	N	04-01-91	03-31-92.
ST91-8588	United Gas Pipe Line Co.	Seagull Marketing Services, Inc.	05-06-91	G-S	10,300	N	04-05-91	08-03-91.
ST91-8589	Southern Natural Gas Co.	Appalachian Gas Sales	05-06-91	G-S	5,000	N	04-13-91	08-11-91.
ST91-8590	Southern Natural Gas Co.	Consolidated Fuel Corp.	05-06-91	G-S	10,000	N	04-12-91	08-10-91.
ST91-8591	Southern Natural Gas Co.	Shell Gas Trading Co.	05-06-91	G-S	60,000	N	03-19-91	07-17-91.
ST91-8592	Southern Natural Gas Co.	South Georgia Natural Gas Co.	05-05-91	G	2,800	Y	04-06-91	08-04-91.
ST91-8593	Southern Natural Gas Co.	Texas Gas Transmission Corp.	05-06-91	G	100,000	N	04-10-91	08-08-91.
ST91-8594	Southern Natural Gas Co.	City of Sylvester	05-06-91	G	381	N	04-02-91	07-31-91.
ST91-8595	Southern Natural Gas Co.	Waverly Mineral Products Co.	05-06-91	G-S	2,800	N	04-06-91	08-04-91.
ST91-8596	ONG Transmission Co.	Natural Gas P/L Co. of America	05-07-91	C	100,000	N	04-25-91	04-24-91.
ST91-8597	Tennessee Gas Pipeline Co.	Berkshire Gas Co.	05-07-91	B	50,000	N	01-15-91	Indefinite.
ST91-8598	Lone Star Gas Co.	Tennessee Gas Pipeline Co.	05-07-91	C	8,000	N	03-27-91	Indefinite.
ST91-8599	Lone Star Gas Co.	Natural Gas P/L Co. of America	05-07-91	C	8,000	N	03-27-91	Indefinite.
ST91-8600	Texas Gas Transmission Corp.	TPC Pipeline, Inc.	05-07-91	B	100,000	N	05-01-91	Indefinite.
ST91-8601	Texas Gas Transmission Corp.	Western Kentucky Gas Co.	05-07-91	B	190	N	04-18-91	Indefinite.
ST91-8602	Arkla Energy Resources	Arkansas Electric Cooperative	05-08-91	G-S	16,560	Y	04-24-91	08-23-91.
ST91-8603	Arkla Energy Resources	Cincinnati Gas & Electric et al	05-08-91	B	45,000	N	06-01-91	Indefinite.
ST91-8604	Arkla Energy Resources	Oryx Energy Co.	05-08-91	G-S	12,000	N	04-11-91	08-10-91.
ST91-8605	Arkla Energy Resources	Louisiana Intrastate Gas Corp.	05-08-91	B	240,000	Y	02-01-91	Indefinite.
ST91-8606	Arkla Energy Resources	Enron Gas Marketing	05-08-91	G-S	102,000	N	02-14-91	06-15-91.
ST91-8607	Arkla Energy Resources	Arkla Energy Marketing Co.	05-08-91	G-S	70,000	Y	11-01-90	03-01-91.
ST91-8608	Arkla Energy Resources	Arkla Energy Marketing Co.	05-08-91	G-S	90,000	Y	03-06-91	07-05-91.
ST91-8609	Arkla Energy Resources	Conagra Frozen Foods	05-08-91	G-S	400	N	11-01-90	03-01-91.
ST91-8610	Arkla Energy Resources	Arkla Energy Marketing Co.	05-08-91	G-S	150,000	Y	12-22-90	04-22-91.
ST91-8611	Mississippi River Trans. Corp.	Entrade Corp.	05-08-91	G-S	50,000	N	04-11-91	08-08-91.
ST91-8612	Columbia Gulf Transmission Co.	Shell Gas Trading Co.	05-07-91	G-S	57,000	N	04-29-91	08-26-91.
ST91-8613	Columbia Gulf Transmission Co.	CNG Trading Co.	05-07-91	G-S	10,000	N	03-23-91	07-21-91.
ST91-8614	Columbia Gulf Transmission Co.	Hadson Gas Systems, Inc.	05-07-91	G-S	121,500	N	04-13-91	08-11-91.
ST91-8615	Colorado Interstate Gas Co.	Texaco Gas Marketing, Inc.	05-08-91	G-S	20,000	N	04-01-91	07-30-91.
ST91-8616	ANR Pipeline Co.	Rochester Gas and Electric Corp.	05-08-91	B	129,277	N	04-13-91	Indefinite.
ST91-8617	ANR Pipeline Co.	Cincinnati Gas and Electric Co.	05-08-91	B	150,000	Y	04-19-91	Indefinite.
ST91-8618	Delhi Gas Pipeline Corp.	Panhandle Eastern Pipeline Co.	05-09-91	C	10,000	N	04-21-91	Indefinite.
ST91-8619	ONG Transmission Co.	Natural Gas P/L Co. of America	05-09-91	C	75,000	N	05-01-91	04-30-93.
ST91-8621	Acadian Gas Pipeline System	Transcontinental Gas P/L Corp.	05-09-91	C	50,000	N	04-01-91	Indefinite.
ST91-8622	Acadian Gas Pipeline System	Natural Gas P/L Co. of America	05-09-91	C	20,000	N	05-01-91	Indefinite.
ST91-8623	Northern Natural Gas Co.	Citizens Gas Supply Corp.	05-09-91	G-S	22,000	N	04-11-91	08-09-91.
ST91-8624	United Gas Pipe Line Co.	Enron Gas Marketing Inc.	05-09-91	G-S	515,000	N	04-19-91	08-17-91.
ST91-8625	Trailblazer Pipeline Co.	Southern California Gas Co.	05-09-91	B	353,000	N	04-11-91	Indefinite.
ST91-8626	Trunkline Gas Co.	Cent. Hudson Gas & Ele. Co., et al.	05-09-91	B	50,000	N	04-18-91	Indefinite.
ST91-8627	Trunkline Gas Co.	Exxon Corp	05-09-91	G-S	25,000	N	04-18-91	08-16-91.
ST91-8628	Arkla Energy Resources	Entex	05-09-91	B	1,000	Y	05-01-91	Indefinite.



Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity	Affiliated Y/N	Date commenced	Projected termination date
ST91-8629	Arkla Energy Resources	Agrico Chemical Co.	05-09-91	G-S	7,000	Y	11-01-90	03-01-91.
ST91-8630	Natural Gas P/L Co. of America	Williams Gas Marketing Co.	05-10-91	G-S	25,000	N	04-10-91	08-08-91.
ST91-8631	Acadian Gas Pipeline System	Sabine Pipeline Co.	05-10-91	C	65,000	N	05-01-91	Indefinite.
ST91-8632	Neches Pipeline System	Natural Gas P/L Co. of America	05-10-91	C	15,000	N	05-01-91	Indefinite.
ST91-8633	Northern Natural Gas Co.	Amarillo Natural Gas, Inc.	05-10-91	B	200	N	04-13-91	Indefinite.
ST91-8634	Northern Natural Gas Co.	Texas Utilities Fuel Co.	05-10-91	G-S	35,000	N	05-01-91	08-29-91.
ST91-8635	Northern Natural Gas Co.	Richardson Products Co.	05-10-91	G-S	75,000	N	04-26-91	08-26-91.
ST91-8636	Northern Natural Gas Co.	E.I.F. Exploration, Inc.	05-10-91	G-S	20,000	N	05-02-91	08-30-91.
ST91-8637	Northern Natural Gas Co.	Sunrise Energy Co.	05-10-91	G-S	10,000	N	05-01-91	08-29-91.
ST91-8638	Transok, Inc.	Northern Natural Gas Co.	05-10-91	C	30,000	N	04-12-91	Indefinite.
ST91-8639	Williston Basin Interstate P/L Co.	Coastal Gas Marketing Co.	05-10-91	G-S	71,484	Y	04-29-91	07-07-91.
ST91-8640	Columbia Gas Transmission Corp.	Manville Sales Corp.	05-10-91	G-S	1,300	N	03-10-91	07-08-91.
ST91-8641	Columbia Gas Transmission Corp.	Fuel Services Group, Inc.	05-10-91	G-S	300,000	Y	04-18-91	08-16-91.
ST91-8642	Trunkline Gas Co.	Columbia Gas Transmission Corp.	05-10-91	G	50,000	N	04-30-91	Indefinite.
ST91-8643	Trunkline Gas Co.	Columbia Gas Transmission Corp.	05-10-91	G	50,000	N	04-30-91	Indefinite.
ST91-8644	Panhandle Eastern Pipe Line Co.	Bishop Pipeline Corp.	05-10-91	G-S	10,000	Y	04-01-91	07-30-91.
ST91-8645	Panhandle Eastern Pipe Line Co.	Northern In Public Service Co.	05-10-91	G	20,000	N	04-21-91	Indefinite.
ST91-8646	Transcontinental Gas P/L Corp.	Cokinos Transmission Co.	05-10-91	B	50,000	N	04-19-91	Indefinite.
ST91-8647	Transcontinental Gas P/L Corp.	Pennsylvania Gas and Water Co.	05-10-91	B	20,000	N	04-29-91	Indefinite.
ST91-8648	Transcontinental Gas P/L Corp.	Consolidated Fuel Corp.	05-10-91	G-S	130,000	N	04-20-91	08-17-91.
ST91-8649	Transcontinental Gas P/L Corp.	Owens-Corning Fiberglas Corp.	05-10-91	G-S	3,000	N	04-01-91	07-29-91.
ST91-8650	United Gas Pipe Line Co.	Laser Marketing Co.	05-13-91	G-S	618,000	Y	05-01-91	08-29-91.
ST91-8651	Florida Gas Transmission Co.	HGX Gas Transmission Corp.	05-13-91	G-S	10,000	N	05-01-91	08-28-91.
ST91-8652	Florida Gas Transmission Co.	City of Starke	05-13-91	G-S	62	N	05-01-91	08-28-91.
ST91-8653	Delhi Gas Pipeline Corp.	Natural Gas P/L Co. of America	05-13-91	C	3,000	N	05-01-91	Indefinite.
ST91-8654	Lone Star Gas Co.	El Paso Natural Gas Co.	05-13-91	C	100,000	N	04-01-91	Indefinite.
ST91-8655	Natural Gas P/L Co. of America	Northern Illinois Gas Co.	05-13-91	B	500,000	N	04-06-91	Indefinite.
ST91-8656	Natural Gas P/L Co. of America	Columbia Gas Distribution Co. of NY.	05-13-91	G-S	300,000	N	10-01-90	Indefinite.
ST91-8658	Tennessee Gas Pipeline Co.	East Ohio Gas Co.	05-13-91	B	4,000	N	04-11-91	Indefinite.
ST91-8659	Texas Eastern Transmission Corp.	Hope Gas Inc.	05-13-91	B	21,500	N	04-02-91	Indefinite.
ST91-8660	Mississippi River Trans. Corp.	Della James, et al.	05-13-91	B	2,000	N	04-15-91	08-12-91.
ST91-8661	Mississippi River Trans. Corp.	Boyd Rosen and Associates, Inc.	05-13-91	G-S	25,000	N	04-27-91	03-24-91.
ST91-8662	Natural Gas P/L Co. of America	Williams Gas Marketing Co.	05-14-91	G-S	50,000	N	04-01-91	07-30-91.
ST91-8663	Natural Gas P/L Co. of America	Midcon Marketing Corp.	05-14-91	G-S	5,000	Y	04-01-91	07-30-91.
ST91-8664	Natural Gas P/L Co. of America	Midcon Marketing Corp.	05-14-91	G-S	50,000	Y	04-01-91	07-30-91.
ST91-8665	Natural Gas P/L Co. of America	Southern California Gas Co.	05-14-91	B	500,000	N	04-14-91	Indefinite.
ST91-8666	Natural Gas P/L Co. of America	Conoco, Inc.	05-14-91	G-S	5,000	N	04-01-91	07-30-91.
ST91-8667	Westar Transmission Co.	El Paso Natural Gas Co.	05-14-91	C	2,000	N	04-10-91	Indefinite.
ST91-8668	Texas Gas Transmission Corp.	Bridgeline Gas Distribution Co.	05-14-91	B	50,000	N	05-01-91	Indefinite.
ST91-8669	Texas Gas Transmission Corp.	Amoco Energy Trading Corp.	05-14-91	G-S	100,000	N	05-06-91	09-02-91.
ST91-8670	Texas Gas Transmission Corp.	Western Kentucky Gas Co.	05-14-91	B	185	N	05-01-91	Indefinite.
ST91-8671	Texas Gas Transmission Corp.	Enron Gas Marketing, Inc.	05-14-91	G-S	100,000	Y	05-01-91	08-28-91.
ST91-8672	Transcontinental Gas P/L Corp.	Citizens Gas Supply Corp.	05-14-91	G-S	300,000	N	05-03-91	07-31-91.
ST91-8673	Transcontinental Gas P/L Corp.	Cokinos Natural Gas Co.	05-14-91	G-S	75,000	N	04-19-91	08-16-91.
ST91-8674	Columbia Gas Transmission Corp.	Toledo Marriott Portside	05-14-91	G-S	800	Y	05-03-91	08-31-91.
ST91-8675	Columbia Gas Transmission Corp.	Ashland Exploration, Inc.	05-14-91	G-S	30,000	Y	05-01-91	08-29-91.
ST91-8676	Midwestern Gas Transmission Co.	Nesta OY	05-15-91	G-S	50,000	N	05-01-91	08-29-91.
ST91-8677	Tennessee Gas Pipeline Co.	UGC Energy Corp.	05-15-91	B	20,675	N	11-01-90	Indefinite.
ST91-8678	Tennessee Gas Pipeline Co.	Energyworth, Inc.	05-15-91	B	25,130	N	05-03-91	Indefinite.
ST91-8679	Tennessee Gas Pipeline Co.	VA Electric and Power Co.	05-15-91	G-S	50,000	N	04-19-91	08-17-91.
ST91-8680	Tennessee Gas Pipeline Co.	UGC Energy Corp.	05-15-91	B	60,430	N	11-01-90	Indefinite.
ST91-8681	Tennessee Gas Pipeline Co.	Nycotex Gas Transport	05-15-91	B	80,000	N	01-29-90	Indefinite.
ST91-8682	Trailblazer Pipeline Co.	Northern Illinois Gas Co.	05-15-91	B	353,000	N	03-01-91	Indefinite.
ST91-8683	Natural Gas P/L Co. of America	East Ohio Gas Co.	05-15-91	B	500,000	N	04-01-91	Indefinite.
ST91-8684	Natural Gas P/L Co. of America	Peoples Gas Light and Ccke Co.	05-15-91	B	500,000	N	04-04-91	Indefinite.
ST91-8685	Natural Gas P/L Co. of America	Amoco Gas Co.	05-15-91	B	200,000	N	04-06-91	Indefinite.
ST91-8686	United Gas Pipe Line Co.	Ames Financial Inc.	05-15-91	G-S	15,450	N	05-08-91	09-05-91.
ST91-8687	United Gas Pipe Line Co.	Midcon Marketing Corp.	05-15-91	G-S	721,000	N	05-06-91	09-03-91.
ST91-8688	El Paso Natural Gas Co.	Western Gas Processors, Ltd.	05-15-91	G-S	15,000	Y	04-18-91	08-16-91.
ST91-8689	Red River Pipeline	Arkla Energy Resources	05-15-91	C	50,000	N	04-23-91	Indefinite.
ST91-8694	Columbia Gas Transmission Corp.	Access Energy Corp.	05-15-91	G-S	60,000	N	04-15-91	08-13-91.
ST91-8695	Arkla Energy Resources	New Jersey Natural Gas Co.	05-15-91	B	25,000	N	04-02-91	Indefinite.
ST91-8696	High Island Offshore System	Oryx Gas Marketing L/P	05-16-91	K-S	154,200	N	04-02-91	05-02-91.
ST91-8697	Transcontinental Gas P/L Corp.	Citizens Gas Supply Corp.	05-16-91	G-S	100,000	N	12-01-89	03-30-90.
ST91-8698	Florida Gas Transmission Co.	Gainesville Regional Utilities	05-16-91	B	219	N	05-01-91	Indefinite.
ST91-8699	Transwestern Pipeline Co.	Gulf Gas Utilities Co.	05-16-91	G-S	6,000	N	05-06-91	09-03-91.
ST91-8700	Tennessee Gas Pipeline Co.	Mississippi Fuel Co.	05-16-91	B	20,000	N	04-10-91	Indefinite.
ST91-8701	Texas Gas Transmission Corp.	Southern Gas Co., Inc.	05-16-91	G-S	450	N	05-01-91	08-28-91.
ST91-8702	Pelican Interstate Gas System	Natural Gas P/L Co. of America	05-17-91	K	15,000	N	09-01-90	Indefinite.
ST91-8703	Pelican Interstate Gas System	Natural Gas P/L Co. of America	05-17-91	K	75,000	N	04-01-91	Indefinite.



Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity	Affiliated Y/N	Date commenced	Projected termination date
ST91-8704	Pelican Interstate Gas System.....	Natural Gas P/L Co. of America....	05-17-91	K	105,000	N	09-01-90	Indefinite.
ST91-8705	Acadian Gas Pipeline System.....	ANR Pipeline Co.....	05-17-91	C	10,000	N	11-01-90	Indefinite.
ST91-8706	Acadian Gas Pipeline System.....	Columbia Gulf Transmission.....	05-17-91	C	10,000	N	05-01-91	Indefinite.
ST91-8707	Columbia Gas Transmission Corp.....	Access Energy Pipeline Corp.....	05-17-91	G-S	25,000	N	05-10-91	09-07-91.
ST91-8708	Columbia Gulf Transmission Co.....	Bridgeline Gas Distribution Co.....	05-17-91	B	150,000	N	04-29-91	Indefinite.
ST91-8709	Columbia Gulf Transmission Co.....	Tijas Power Corp.....	05-17-91	G-S	150,000	N	04-29-91	08-26-91.
ST91-8710	Columbia Gulf Transmission Co.....	Diamond Shamrock Offshore Par. L.P.	05-17-91	G-S	7,000	N	04-29-91	08-26-91.
ST91-8711	Columbia Gulf Transmission Co.....	Columbia Gas Development Corp.....	05-17-91	G-S	250,000	N	04-29-91	08-26-91.
ST91-8712	Columbia Gulf Transmission Co.....	UER Marketing Co.....	05-17-91	G-S	150,000	N	04-29-91	08-26-91.
ST91-8713	Rocky Mountain Natural Gas Co.....	Greeley Gas Co.....	04-20-91	G-S	10,000	N	04-09-91	Indefinite.
ST91-8714	Arktia Energy Resources.....	Valero Natural Gas Co.....	04-20-91	B	200,000	N	05-01-91	Indefinite.
ST91-8715	Tennessee Gas Pipeline Co.....	North Canadian Marketing Corp.....	04-20-91	G-S	200,000	N	04-20-91	08-18-91.
ST91-8716	Tennessee Gas Pipeline Co.....	Meridian Marketing and Trans. Corp.	04-20-91	G-S	500	N	05-01-91	08-29-91.
ST91-8717	Tennessee Gas Pipeline Co.....	Southern Connecticut Gas Co.....	04-20-91	B	40,000	N	04-30-91	Indefinite.
ST91-8718	Tennessee Gas Pipeline Co.....	Libra Marketing Co.....	04-20-91	G-S	50,000	N	04-29-91	08-27-91.
ST91-8720	Louisiana Intrastate Gas Corp.....	Tennessee Gas Pipeline Co.....	05-20-91	C	3,000	N	05-01-91	Indefinite.
ST91-8721	Louisiana Intrastate Gas Corp.....	Tennessee Gas Pipeline Co.....	05-20-91	C	3,000	N	04-01-91	Indefinite.
ST91-8722	Traitblazer P/L Co.....	Northern Illinois Gas Co.....	05-20-91	B	50,000	N	04-20-91	Indefinite.
ST91-8723	Natural Gas P/L Co. of America.....	Green Valley Chemical Corp.....	05-20-91	G-S	3,800	N	05-01-91	08-29-91.
ST91-8724	Columbia Gas Transmission Corp.....	GTE Products Corp.....	05-20-91	G-S	1,650	Y	05-08-91	09-05-91.
ST91-8725	Columbia Gas Transmission Corp.....	Texas Eastern Transmission Corp.....	05-20-91	G-S	50,000	Y	04-18-91	08-16-91.
ST91-8726	Delhi Gas Pipeline Corp.....	Transwestern Pipeline Co.....	05-21-91	C	2,000	N	05-02-91	Indefinite.
ST91-8727	Lone Star Gas Co.....	El Paso Natural Gas Co.....	05-21-91	C	2,000	N	05-01-91	Indefinite.
ST91-8728	Lone Star Gas Co.....	El Paso Natural Gas Co.....	05-21-91	C	15,000	N	04-28-91	Indefinite.
ST91-8729	Transwestern Pipeline Co.....	Natural Gas Clearinghouse.....	05-22-91	G-S	100,000	N	03-01-91	Indefinite.
ST91-8730	Transwestern Pipeline Co.....	Tranam Energy, Inc.....	05-21-91	G-S	50,000	N	05-08-91	09-05-91.
ST91-8731	Transwestern Pipeline Co.....	NGC Transportation, Inc.....	05-21-91	G-S	50,000	N	05-18-91	09-13-91.
ST91-8732	Northern Natural Gas Co.....	Brooklyn Interstate Nat. Gas Corp.	05-21-91	G-S	88,457	N	05-01-91	08-29-91.
ST91-8733	Columbia Gulf Transmission Co.....	Phibro Energy, Inc.....	05-21-91	G-S	5,000	N	05-01-91	08-28-91.
ST91-8734	Columbia Gulf Transmission Co.....	American Central Gas Marketing Co.	05-21-91	G-S	40,000	N	05-01-91	08-28-91.
ST91-8735	Columbia Gulf Transmission Co.....	Appalachian Gas Sales.....	05-21-91	G-S	50,000	N	05-01-91	08-28-91.
ST91-8736	Columbia Gulf Transmission Co.....	Superior Natural Gas Corp.....	05-21-91	G-S	30,000	N	05-10-91	09-06-91.
ST91-8737	Columbia Gulf Transmission Co.....	Aquila Energy Marketing Corp.....	05-21-91	G-S	13,400	N	05-01-91	08-28-91.
ST91-8738	Valero Transmission, L.P.....	Natural Gas P/L Co. of America.....	05-22-91	C	8,000	N	05-06-91	Indefinite.
ST91-8739	Stingray Pipeline Co.....	NGC Transportation, Inc.....	05-22-91	K-S	100,000	N	04-01-91	07-30-91.
ST91-8740	Natural Gas P/L Co. of America.....	KN Gas Marketing, Inc.....	05-22-91	G-S	150,000	N	04-17-91	08-15-91.
ST91-8741	Natural Gas P/L Co. of America.....	Total Minatomie Corp.....	05-22-91	G-S	25,000	N	04-01-91	07-30-91.
ST91-8742	Natural Gas P/L Co. of America.....	American Central Gas Companies.	05-22-91	G-S	5,000	N	04-01-91	07-30-91.
ST91-8743	Natural Gas P/L Co. of America.....	V.H.C. Gas Systems, L.P.....	05-22-91	G-S	23,000	N	04-01-91	07-30-91.
ST91-8744	Natural Gas P/L Co. of America.....	Vesta Energy Co.....	05-22-91	G-S	100,000	N	04-01-91	07-30-91.
ST91-8745	Natural Gas P/L Co. of America.....	V.H.C. Gas Systems, L.P.....	05-22-91	G-S	23,000	N	04-01-91	07-30-91.
ST91-8746	Natural Gas P/L Co. of America.....	Corn Products.....	05-22-91	G-S	5,000	N	04-01-91	07-30-91.
ST91-8747	Natural Gas P/L Co. of America.....	American Central Gas Marketing Co.	05-22-91	G-S	15,000	N	12-01-91	03-31-91.
ST91-8748	Natural Gas P/L Co. of America.....	Midcon Marketing Corp.....	05-22-91	G-S	15,000	Y	04-01-91	07-30-91.
ST91-8749	Northern Natural Gas Co.....	Enmark Gas Corp.....	05-22-91	B	40,000	N	04-24-91	Indefinite.
ST91-8750	Trunkline Gas Co.....	Tejas Power Corp.....	05-22-91	G-S	100,000	N	05-10-91	09-07-91.
ST91-8751	Trunkline Gas Co.....	Hadson Gas Systems, Inc.....	05-22-91	G-S	100,000	N	05-04-91	09-01-91.
ST91-8752	Trunkline Gas Co.....	Freeport-McMoran Oil and Gas Co.	05-22-91	G-S	3,000	N	05-01-91	08-29-91.
ST91-8753	Trunkline Gas Co.....	V.H.C. Gas Systems, L.P.....	05-22-91	G-S	200,000	N	05-01-91	03-29-91.
ST91-8754	Trunkline Gas Co.....	Bishop Pipeline Corp.....	05-22-91	G-S	20,000	N	05-01-91	08-29-91.
ST91-8755	Trunkline Gas Co.....	Sheli Gas Trading Co.....	05-22-91	G-S	100,000	N	05-01-91	08-29-91.
ST91-8756	Trunkline Gas Co.....	Memphis Light, Gas and Water Div.	05-22-91	B	6,210	N	05-07-91	Indefinite.
ST91-8757	Trunkline Gas Co.....	Baltimore Gas and Electric Co.....	05-22-91	B	100,000	N	05-01-91	Indefinite.
ST91-8758	Trunkline Gas Co.....	Eastex Hydrocarbons, Inc.....	05-22-91	G-S	100,000	N	05-14-91	09-11-91.
ST91-8759	Trunkline Gas Co.....	Transco Energy Marketing Co.....	05-22-91	G-S	10,000	N	05-01-91	08-29-91.
ST91-8760	Trunkline Gas Co.....	Unifield Natural Gas Group.....	05-22-91	G-S	100,000	N	05-01-91	08-29-91.
ST91-8761	ANR Pipeline Co.....	Entrade Corp.....	05-22-91	G-S	100,000	N	04-27-91	08-24-91.
ST91-8762	ANR Pipeline Co.....	Iowa-Illinois Gas and Electric Co.....	05-22-91	B	100,000	N	04-27-91	Indefinite.
ST91-8763	ANR Pipeline Co.....	Elf Exploration, Inc.....	05-22-91	G-S	75,000	N	04-27-91	08-24-91.
ST91-8764	ANR Pipeline Co.....	Enron Gas Marketing, Inc.....	05-22-91	G-S	100,000	N	04-24-91	08-21-91.
ST91-8765	Exxon Gas System, Inc.....	Northern Natural Gas Co.....	05-23-91	C	10,000	N	01-04-91	Indefinite.
ST91-8766	Exxon Gas System, Inc.....	Corpus Christi Industrial P/L Co.....	05-23-91	C	10,000	N	05-01-91	Indefinite.
ST91-8767	Delhi Gas P/L Corp.....	Transwestern P/L Co.....	05-23-91	C	20,000	N	05-01-91	Indefinite.
ST91-8768	Panhandle Eastern P/L Co.....	Unified Natural Gas Group.....	05-23-91	G-S	20,000	N	05-01-91	08-29-91.
ST91-8769	Panhandle Eastern P/L Co.....	Gastrak Corp.....	05-23-91	G-S	62,500	N	05-01-91	08-29-91.
ST91-8770	Panhandle Eastern P/L Co.....	Gastrak Corp.....	05-23-91	G-S	342,000	N	05-01-91	08-29-91.
ST91-8771	Panhandle Eastern P/L Co.....	Enron Gas Marketing, Inc.....	05-23-91	G-S	25,000	N	05-01-91	08-29-91.
ST91-8772	Panhandle Eastern P/L Co.....	Panhandle Trading Co.....	05-23-91	G-S	10,000	Y	05-01-91	08-29-91.



Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity	Affiliated Y/N	Date commenced	Projected termination date
ST91-8773	Panhandle Eastern P/L Co.....	Hadson Gas Systems, Inc.....	05-23-91	G-S	100,000	N	05-03-91	08-31-91.
ST91-8774	Panhandle Eastern P/L Co.....	Unified Natural Gas Group.....	05-23-91	G-S	30,000	N	05-01-91	08-29-91.
ST91-8775	Panhandle Eastern P/L Co.....	Panhandle Trading Co.....	05-23-91	G-S	100,000	Y	05-01-91	08-29-91.
ST91-8776	Panhandle Eastern P/L Co.....	Midwest Grain Products of IL.....	05-23-91	G-S	2,900	N	05-01-91	08-29-91.
ST91-8777	Panhandle Eastern P/L Co.....	AMGAS, Inc.....	05-23-91	G-S	40	N	05-01-91	08-29-91.
ST91-8778	Panhandle Eastern P/L Co.....	Columbia Gas Transmission Corp.....	05-23-91	G	50,000	N	04-01-91	Indefinite.
ST91-8779	Panhandle Eastern P/L Co.....	Texpar Energy, Inc.....	05-23-91	G-S	100,000	N	05-01-91	08-29-91.
ST91-8780	Panhandle Eastern P/L Co.....	Enron Gas Marketing, Inc.....	05-23-91	G-S	100,000	N	05-01-91	08-29-91.
ST91-8781	Sea Robin P/L Co.....	United Gas P/L Co.....	05-23-91	G	5,000	N	05-01-90	Indefinite.
ST91-8782	Northwest P/L Corp.....	Blomass One L.P.....	05-23-91	G-S	5,000	N	04-29-91	08-26-91.
ST91-8783	Northwest P/L Corp.....	Grealey Gas Co.....	05-23-91	G-S	540	N	05-01-91	08-29-91.
ST91-8784	EL Paso Natural Gas Co.....	Westar Transmission Co.....	05-23-91	G-S	150,000	Y	05-01-91	08-29-91.
ST91-8785	Arkla Energy Resources.....	Arkla Energy Marketing Co.....	05-23-91	G-S	450	Y	04-01-91	07-20-91.
ST91-8786	Arkla Energy Resources.....	Lafayette Gas Intrastate.....	05-23-91	B	25,000	Y	04-01-91	Indefinite.
ST91-8787	Arkla Energy Resources.....	Arkla Energy Marketing Co.....	05-23-91	G-S	150,000	Y	04-04-91	08-03-91.
ST91-8788	Transcontinental Gas P/L Corp.....	Mosbacher Energy Co.....	05-23-91	G-S	200	N	04-22-91	08-19-91.
ST91-8789	Tennessee Gas P/L Co.....	Southern Gas Co, Inc.....	05-24-91	G-S	25,000	N	04-24-91	08-22-91.
ST91-8790	Lone Star Gas Co.....	Natural Gas P/L Co of America.....	05-24-91	C	12,000	N	04-25-91	Indefinite.
ST91-8791	ONG Transmission Co.....	Natural Gas P/L Co of America.....	05-24-91	C	50,000	N	05-01-91	04-30-93.
ST91-8792	Natural Gas P/L Co of America.....	Hadson Gas Systems, Inc.....	05-24-91	G-S	100,000	N	05-01-91	08-29-91.
ST91-8793	Natural Gas P/L Co of America.....	Phibro Energy, Inc.....	05-24-91	G-S	50,000	N	05-01-91	08-29-91.
ST91-8794	High Island Offshore System.....	Williams Gas Marketing Co.....	05-24-91	K-S	50,000	N	05-17-91	09-13-91.
ST91-8795	Northern Natural Gas Co.....	Unigas Corp.....	05-24-91	G-S	100,000	N	05-01-91	08-29-91.
ST91-8796	Northern Natural Gas Co.....	Howard Energy Co.....	05-24-91	G-S	100,000	N	05-04-91	09-03-91.
ST91-8797	Northern Natural Gas Co.....	Natgas U.S. Inc.....	05-24-91	G-S	350,000	N	05-07-91	09-04-91.
ST91-8798	Southern Natural Gas Co.....	Texaco Inc.....	05-24-91	G-S	100,000	N	05-03-91	08-31-91.
ST91-8799	Southern Natural Gas Co.....	Peoples Gas System, Inc.....	05-24-91	B	50,000	N	05-13-91	Indefinite.
ST91-8800	Southern Natural Gas Co.....	Centran Corp.....	05-24-91	G-S	4,000	N	05-07-91	09-04-91.
ST91-8801	Southern Natural Gas Co.....	Excel Gas Marketing Inc.....	05-24-91	G-S	100,000	N	05-03-91	08-31-91.
ST91-8802	Southern Natural Gas Co.....	Peoples Gas System, Inc.....	05-24-91	B	10,050	N	05-17-91	Indefinite.
ST91-8803	South Georgia Natural Gas Co.....	Peoples Gas System, Inc.....	05-24-91	B	10,000	N	05-17-91	Indefinite.
ST91-8804	South Georgia Natural Gas Co.....	Peoples Gas System, Inc.....	05-24-91	B	50,000	N	05-17-91	Indefinite.
ST91-8805	South Georgia Natural Gas Co.....	Consolidated Fuel Corp.....	05-24-91	G-S	10,000	N	04-12-91	08-10-91.
ST91-8806	El Paso Natural Gas Co.....	Gas Co of New Mexico.....	05-28-91	B	39,758	Y	04-05-91	Indefinite.
ST91-8807	Colorado Interstate Gas Co.....	Marathon Oil Co.....	05-28-91	G-S	60,000	N	05-11-91	09-09-91.
ST91-8808	Northern Natural Gas Co.....	West Texas Gas, Inc.....	05-28-91	B	100,000	Y	05-01-91	Indefinite.
ST91-8809	Northern Natural Gas Co.....	GPC Marketing Co.....	05-28-91	G-S	20,000	N	05-15-91	09-12-91.
ST91-8810	Tennessee Gas P/L Co.....	Equitrans, Inc.....	05-28-91	G	2,073	N	05-01-91	Indefinite.
ST91-8811	Tennessee Gas P/L Co.....	Desota P/L Co, Inc.....	05-28-91	G-S	4,000	N	05-01-91	08-29-91.
ST91-8812	Tennessee Gas P/L Co.....	East Ohio Gas Co.....	05-28-91	B	50,000	N	04-27-91	Indefinite.
ST91-8813	Tennessee Gas P/L Co.....	Texas Gas P/L Co.....	05-28-91	G	6,300	N	04-03-91	Indefinite.
ST91-8814	Transok, Inc.....	Natural Gas P/L Co of America.....	05-28-91	C	100,000	N	05-04-91	Indefinite.
ST91-8815	Transok, Inc.....	Phillips Gas P/L Co.....	05-28-91	C	25,000	N	04-26-91	Indefinite.
ST91-8816	Transok, Inc.....	Natural Gas P/L Co of America.....	05-28-91	C	50,000	N	05-01-91	Indefinite.
ST91-8817	Columbia Gas Transmission Corp.....	Columbia Gas of PA, Inc.....	05-28-91	B	497	Y	05-21-91	Indefinite.
ST91-8818	Columbia Gas Transmission Corp.....	New York State Electric and Gas Corp.....	05-28-91	G-S	300,000	Y	05-21-91	08-30-91.
ST91-8819	Tennessee Gas P/L Co.....	East Ohio Gas Co.....	05-29-91	B	30,000	N	05-14-91	Indefinite.
ST91-8820	Tennessee Gas P/L Co.....	Endevco Oil and Gas Co.....	05-29-91	G-S	50,000	N	05-02-91	08-30-91.
ST91-8821	Natural Gas P/L Co of America.....	Southern California Gas Co.....	05-29-91	B	500,000	N	04-02-91	Indefinite.
ST91-8822	Natural Gas P/L Co of America.....	Interstate Power Co.....	05-29-91	B	25,000	N	05-04-91	Indefinite.
ST91-8823	Natural Gas P/L Co of America.....	Northern Illinois Gas Co.....	05-29-91	B	5,500	N	05-01-91	Indefinite.
ST91-8824	Natural Gas P/L Co of America.....	Entex.....	05-29-91	B	500,000	N	05-01-91	Indefinite.
ST91-8825	Algonquin Gas Transmission Co.....	Enttrade.....	05-29-91	G-S	200,000	N	05-01-91	08-29-91.
ST91-8826	Algonquin Gas Transmission Co.....	Distrigas of Mass Corp.....	05-29-91	B	66,612	N	08-01-91	Indefinite.
ST91-8827	Algonquin Gas Transmission Co.....	Philbro Energy, Inc.....	05-29-91	G-S	50,000	N	05-01-91	Indefinite.
ST91-8828	Algonquin Gas Transmission Co.....	Distrigas of Mass Corp.....	05-29-91	B	66,612	N	04-01-91	Indefinite.
ST91-8829	Algonquin Gas Transmission Co.....	Distrigas of Mass Corp.....	05-29-91	B	66,612	N	04-01-91	Indefinite.
ST91-8830	Algonquin Gas Transmission Co.....	Distrigas of Mass Corp.....	05-29-91	B	66,612	N	04-01-91	Indefinite.
ST91-8831	Texas Eastern Transmission Corp.....	North Canadian Marketing Corp.....	05-29-91	G-S	145,261	N	05-08-91	09-05-91.
ST91-8832	Texas Eastern Transmission Corp.....	Equitable Gas Co.....	05-29-91	B	5,000	N	05-01-91	Indefinite.
ST91-8833	Transcontinental Gas P/L Corp.....	Long Island Lighting Co.....	05-29-91	B	250,000	N	07-01-91	09-20-91.
ST91-8834	Texas Gas Transmission Corp.....	Exxon Corp.....	05-29-91	G-S	100,000	Y	05-11-91	09-07-91.
ST91-8835	Columbia Gas Transmission Corp.....	Howell Gas Management Co.....	05-29-91	G-S	500,000	Y	05-01-91	08-29-91.
ST91-8836	Sea Robin Pipeline Co.....	Louis Dreyfus Energy Corp.....	05-30-91	G-S	100,000	N	02-01-91	08-29-91.
ST91-8837	Channel Industries Gas Co.....	Natural Gas P/L Co of America.....	05-30-91	C	40,000	N	08-29-91	Indefinite.
ST91-8838	Questar Pipeline Co.....	City of Springfield.....	05-30-91	B	5,230	Y	05-02-91	09-30-91.
ST91-8839	Questar Pipeline Co.....	KPL Gas Service Co.....	05-30-91	B	30,000	N	05-02-91	Indefinite.
ST91-8840	Natural Gas P/L Co of America.....	Tenaska Marketing Ventures.....	05-30-91	G-S	5,000	N	05-01-91	08-29-91.
ST91-8841	Natural Gas P/L Co of America.....	Industrial Energy App Inc.....	05-30-91	G-S	200,00	N	05-01-91	08-29-91.
ST91-8842	ANR Pipeline Co.....	Union Light, Heat and Power Co.....	05-30-91	B	7,000	N	05-01-91	Indefinite.
ST91-8843	ANR Pipeline Co.....	Wisconsin Public Service Corp.....	05-30-91	B	20,000	N	05-01-91	Indefinite.
ST91-8844	ANR Pipeline Co.....	Wisconsin Public Service Corp.....	05-30-91	B	20,000	N	05-01-91	Indefinite.
ST91-8845	ANR Pipeline Co.....	Wisconsin Gas Co.....	05-30-91	B	8,500	N	05-01-91	Indefinite.
ST91-8846	ANR Pipeline Co.....	Michigan Consolidated Gas Co.....	05-30-91	B	25,456	N	05-01-91	03-31-92.



Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity	Affiliated Y/N	Date commenced	Projected termination date
ST91-8847	ANR Pipeline Co .....	Amoco Production Co .....	05-30-91	G-S	150,000	N	05-01-91	Indefinite.
ST91-8848	ANR Pipeline Co .....	Triumph Gas Marketing Co .....	05-30-91	G-S	1,000	N	05-01-91	08-28-91.
ST91-8849	ANR Pipeline Co .....	Triumph Gas Marketing Co .....	05-30-91	G-S	1,500	N	05-01-91	08-28-91.
ST91-8850	ANR Pipeline Co .....	Northern Indiana Public Ser Co .....	05-30-91	B	30,000	N	05-04-91	Indefinite.
ST91-8851	ANR Pipeline Co .....	Cincinnati Gas and Electric Co .....	05-30-91	B	23,000	N	05-01-91	Indefinite.
ST91-8852	ANR Pipeline Co .....	Niagra Mohawk Power Corp .....	05-30-91	B	12,300	N	05-01-91	Indefinite.
ST91-8853	Transcontinental Gas P/L Corp .....	Energy Marketing Exchange, Inc .....	05-30-91	B	100,000	N	05-01-91	Indefinite.
ST91-8854	United Gas Pipeline Co .....	Tejas Hydrocarbons .....	05-30-91	G-S	50,000	N	05-02-91	09-17-91.
ST91-8855	Arkla Energy Resources .....	Gaylord Container, Inc .....	05-30-91	G-S	500	N	01-01-91	05-01-91.
ST91-8856	Delhi Gas Pipeline Corp .....	Natural Gas P/L Co of America .....	05-31-91	C	2,000	N	05-16-91	Indefinite.
ST91-8857	Exxon Gas System, Inc .....	Neches Gas Distribution Co .....	05-31-91	C	10,000	N	05-01-91	Indefinite.
ST91-8858	Channel Industries Gas Co .....	Moss Bluff Gas Storage Systems .....	05-31-91	C	40,000	N	10-05-90	Indefinite.
ST91-8859	Columbia Gulf Transmission Co .....	CNG Trading Co .....	05-31-91	G-S	50,000	N	05-04-91	08-31-91.
ST91-8860	Natural Gas P/L Co. of America .....	Owens-Illinois Glass Container .....	05-31-91	G-2	1,000	N	05-01-91	08-29-91.
ST91-8861	Natural Gas P/L Co. of America .....	San Diego Gas & Electric Co .....	05-31-91	B	225,000	N	05-01-91	Indefinite.
ST91-8862	Northern Natural Gas Co .....	Enron Oil & Gas Co .....	05-31-91	G-S	50,000	Y	05-10-91	09-09-91.
ST91-8863	Northern Natural Gas Co .....	Broad Street Oil and Gas Co .....	05-31-91	G-S	33,333	N	05-15-91	09-12-91.
ST91-8864	Gulf States Trans. Corp .....	Crosstex Marketing Co .....	05-31-91	G-S	20,000	N	05-01-91	08-29-91.
ST91-8865	Gulf States Trans. Corp .....	Westchester Gas Co .....	05-31-91	G-S	50,000	N	05-01-91	08-29-91.
ST91-8868	Tennessee Gas Pipeline Co .....	Southeastern Natural Gas Co .....	05-31-91	B	50,000	N	05-01-91	Indefinite.
ST91-8869	Tennessee Gas Pipeline Co .....	Columbia Gas Transmission Corp .....	05-31-91	G	50,000	N	05-01-91	Indefinite.
ST91-8870	Tennessee Gas Pipeline Co .....	CNG Transmission Corp .....	05-31-91	G	50,000	N	05-01-91	Indefinite.
ST91-8871	Tennessee Gas Pipeline Co .....	East Ohio Gas Co .....	05-31-91	B	100,000	N	05-04-91	Indefinite.
ST91-8872	Tennessee Gas Pipeline Co .....	Nycotex Gas Transport .....	05-31-91	B	100,000	N	05-04-91	Indefinite.
ST91-8873	Panhandle Eastern P/L Co .....	Cibola Corp .....	05-31-91	G-S	100,000	N	05-01-91	08-29-91.
ST91-8874	Panhandle Eastern P/L Co .....	West Ohio Gas Co. et al .....	05-31-91	B	50,000	N	05-01-91	Indefinite.
ST91-8875	Panhandle Eastern P/L Co .....	Baltimore Gas and Electric Co., et al .....	05-31-91	B	100,000	N	05-01-91	Indefinite.
ST91-8876	Panhandle Eastern P/L Co .....	Caterpillar, Inc .....	05-31-91	G-S	15,000	N	05-01-91	08-29-91.
ST91-8877	Panhandle Eastern P/L Co .....	Dunn/Seco Partners .....	05-31-91	G-S	3,700	N	04-01-91	07-30-91.
ST91-8878	Panhandle Eastern P/L Co .....	Access Energy Corp .....	05-31-91	G-S	50,000	N	05-01-91	08-29-91.
ST91-8879	Colorado Interstate Gas Co .....	Golden Gas Energies, Inc .....	05-31-91	G-S	5,000	N	05-17-91	09-16-91.
ST91-8880	Colorado Interstate Gas Co .....	Aquila Energy .....	05-31-91	G-S	14,009	N	05-05-91	09-03-91.
ST91-8881	Colorado Interstate Gas Co .....	Louis Dreyfus Energy Co .....	05-31-91	G-S	50,000	N	05-01-91	08-29-91.
ST91-8882	Colorado Interstate Gas Co .....	Vesgas Co .....	05-31-91	G-S	2,000	N	05-01-91	08-29-91.
ST91-8883	Colorado Interstate Gas Co .....	Texaco Gas Marketing, Inc .....	05-31-91	G-S	100,000	N	05-01-91	08-29-91.
ST91-8884	Williston Basin Interstate P/L Co .....	Amerada Hess Corp .....	05-31-91	G-S	26,000	N	05-01-91	07-31-91.
ST91-8885	Williams Natural Gas Co .....	Universal Resources Corp .....	05-31-91	G-S	5,000	N	05-01-91	08-28-91.
ST91-8886	Transcontinental Gas P/L Corp .....	Appalachian Gas Sales .....	05-31-91	B	50,000	N	05-01-91	Indefinite.
ST91-8887	Transcontinental Gas P/L Corp .....	Appalachian Gas Sales .....	05-31-91	B	50,000	N	05-01-91	Indefinite.
ST91-8888	Transcontinental Gas P/L Corp .....	Superior Natural Gas Corp .....	05-31-91	G-S	25,000	N	05-01-91	08-28-91.
Below is a ST-docketed initial report which is noticed out of sequence. This initial report was not noticed previously because it required additional commission staff reviews.								
ST91-6283	Arkla Energy Resources .....	Phoenix Gas P/L .....	01-09-91	G-S	150	N	12-27-90	04-25-91.

<sup>1</sup> Transportation service converted from authority under 18 C.F.R. section 284.106, subpart B, to authority under 18 C.F.R. section 284.223(f)(1), subpart G-S.

<sup>2</sup> Notice of transactions does not constitute a determination that filings comply with commission regulations in accordance with order No. 436 (final rule and notice requesting supplemental comments, 50 FR 42,372, 10/10/85).

<sup>3</sup> Estimated maximum daily volumes includes volumes reported by the filing company in mmbtu, mcf and dt.

[FR Doc. 91-14679 Filed 6-19-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-2192-000, et al.]

# **United Gas Pipe Line Company, et al.; Natural gas certificate filings**

Take notice that the following filings have been made with the Commission:

## **1. United Gas Pipe Line Company, et al.**

[Docket Nos. CP91-2192-000, CP91-2193-000, CP91-2194-000, CP91-2195-000, CP91-2196-000]

June 10, 1991.

Take notice that Applicants filed in the above-referenced dockets prior

notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under the blanket certificates issued to Applicants pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.<sup>1</sup>

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation

<sup>1</sup> These prior notice requests are not consolidated.

rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and it summarized in the attached appendix A. Applicants' addresses and transportation blanket certificates are shown in the attached appendix B.

Comment date: July 25, 1991, in accordance with Standard Paragraph G at the end of this notice.



## APPENDIX A

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-2192-000 (6-6-91)	Laser Marketing Company (Marketer).	618,000 618,000 225,570,000	Various.....	Various.....	12-16-88, ITS, Interruptible.	ST91-8650, 5-1-91.
CP91-2193-000 (6-6-91)	Midcon Marketing Corp. (Marketer).	721,000 721,000 263,165,000	Various.....	Various.....	4-30-86, Interruptible.	ST91-8687, 5-15-91.
CP91-2194-000 (8-6-91)	Ames Financial Incorporated (Marketer).	15,450 15,450 5,639,250	Various.....	Various.....	7-14-89, ITS, Interruptible.	ST91-8686, 5-8-91.
CP91-2195-000 (6-6-91)	Texaco Gas Marketing Inc. (Marketer).	<sup>1</sup> 100,000 20,000 7,300,000	WY .....	KS .....	6-1-89, TI-1, Interruptible.	ST91-8883, 5-1-91.
CP91-2196-000 (6-6-91)	Sunrise Energy Company (Marketer).	10,450 7,500 3,650,000	OK, TX .....	TX .....	5-1-91, FT-1, Firm..	ST91-8637, 5-1-91.

<sup>1</sup> Measured in Mct.

## APPENDIX B

Applicant's address	Blanket docket
Colorado Interstate Gas Company, P.O. Box 1087, Colorado Springs, Colorado 80944 .....	CP86-589, et al.
Northern Natural Gas Company, 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188 .....	CP86-435-000
United Gas Pipe Line Company, P.O. Box 1478, Houston, Texas 77251-1478 .....	CP88-6-000

## Northern Natural Gas Company, et. al.

[CP91-2172-000,<sup>2</sup> CP91-2173-000, CP91-2174-000, CP91-2175-000, CP91-2176-000]

June 10, 1991.

Take notice that on June 4, 1991, Applicants filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to transport natural gas on behalf of various shippers under their respective blanket certificates issued pursuant to section 7

<sup>2</sup> These prior notice requests are not consolidated.

of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the date of the transportation service agreement between the Applicant and the respective shipper, the reference number of the transportation service agreement, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket number and initiation dates of the 120-day transactions under § 284.223 of the

Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

The Applicants allege that they would provide the proposed service for each shipper under an executed transportation service agreement and would charge rates and abide by the terms and conditions of the referenced transportation rate schedules. The Applicants contend that construction of facilities is not required with each of the Applicants using existing facilities to provide the proposed transportation service.

*Comment date:* July 25, 1991, in accordance with Standard Paragraph G at the end of this notice.

## APPENDIX

Docket No., Trans. Agree. (Ref. No.)	Applicant	Shipper name	Peak day, <sup>1</sup> avg. annual	Points of		Start up date, rate schedule, service type	Related <sup>2</sup> dockets
				Receipt	Delivery		
CP91-2172-000, 5-7-91, (5915)	Northern Natural Gas Co., 1400 Smith Street, P.O. Box 1188, Houston, TX 77251-1188.	Natgas U.S. Inc. ...	350,000 262,500 127,750,000	Various .....	Various .....	5-7-91, IT-1, Interruptible.	CP86-435-000, ST91-8797-000.
CP91-2173-000, 5-15-91, (78008)	Northern Natural Gas Company.	GPC Marketing Company.	20,000 15,000 7,300,000	Various .....	Various .....	5-15-91, IT-1, Interruptible.	CP86-435-000, ST91-8909-000.
CP91-2174-000, 5-8-91 (5892)	Northern Natural Gas Company.	Unigas Corporation.	100,000 75,000 36,500,000	Various .....	Various .....	5-1-91, TI-1, Interruptible.	CP86-435-000, ST91-8795-000.



## APPENDIX—Continued

Docket No., Trans. Agree. (Ref. No.)	Applicant	Shipper name	Peak day, <sup>1</sup> avg. annual	Points of		Start up date, rate schedule, service type	Related <sup>2</sup> dockets
				Receipt	Delivery		
CP91-2175-000, 9-12-90, (P-PLT-3382)	Panhandle Eastern Pipe Line Co., P.O. Box 1642 Houston, TX 77251-1642.	Dunn/Seco Partners.	3,750 Dt 3,750 Dt 1,350,500 Dt	Various .....	MI .....	9-12-90, PT, Interruptible.	CP86-585-000, ST91-8877-000.
CP91-2176-000, 11-26-90, (97R7)	El Paso Natural Gas Co., P.O. Box 1492, El Paso, 79978.	Wester Gas Processors, Ltd..	15,000 7,500 2,737,500	NM, CO, & UT .....	CO .....	4-18-91, T-1, Interruptible.	CP88-433-000, ST91-8688-000.

<sup>1</sup> Quantities are shown in MMBtu unless otherwise indicated.

<sup>2</sup> The CP Docket number corresponds to the Applicants' blanket transportation certificate. The ST docket indicates that 120-day transportation service was initiated under § 284.223(a) of the Commission's Regulations.

### 3. Northern Natural Gas Company, et al.

[Docket Nos. CP91-2184-000, CP91-2185-000, CP91-2186-000, and CP91-2188-000]

June 10, 1991.

Take notice that Applicants filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under the blanket certificates issued to Applicants

pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.<sup>3</sup>

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day

<sup>3</sup> These prior notice requests are not consolidated.

and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix A. Applicants' addresses and transportation blanket certificates are shown in the attached appendix B.

*Comment date:* July 25, 1991, in accordance with Standard Paragraph G at the end of this notice.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt <sup>1</sup> points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-2184-000 (6-4-91)	Amoco Energy Trading Corporation (Marketer).	100,000 20,000 3,650,000	OK .....	TX .....	3-5-91, IT-1, Interruptible.	ST91-8669, 5-6-91.
CP91-2185-000 (6-4-91)	Enron Gas Marketing, Inc. (Marketer).	100,000 100,000 36,500,000	Various .....	Various .....	3-5-91, TI-1, Interruptible.	ST91-8671, 5-1-91.
CP91-2186-000 (6-4-91)	Southern Gas Company, Inc. (Marketer).	450 450 164,000	Various .....	Various .....	3-8-91, FT, Firm .....	ST91-8701, 5-1-91.
CP91-2188-000 (6-5-91)	Marathon Oil Company (Producer).	60,000 60,000 21,900,000	OK, TX, KS, CO, WY .....	CO .....	3-5-91, TI-1, Interruptible.	ST91-8807, 5-11-91.

<sup>1</sup> Offshore Louisiana and offshore Texas are shown as OLA and OTX.

Applicant's address	Blanket docket
Colorado Interstate Gas Company, P.O. Box 1087, Colorado Springs, Colorado 80944 .....	CP86-589, et al.
Northern Natural Gas Company, 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188 .....	CP86-435-000.
Texas Gas Transmission Corporation, 3800 Frederica Street, Owensboro, Kentucky 42301 .....	CP86-686-000.

### 4. Arkla Energy Resources, a division of Arkla, Inc.

[Docket No. CP91-2116-000]

June 10, 1991.

Take notice that on June 6, 1991, Arkla Energy Resources, a division of Arkla, Inc. (AER) filed in Docket No. CP91-2116-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for

authorization to transport natural gas for six shippers under AER's blanket certificate issued in Docket No. CP88-820-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Information applicable to each shipper, including the type of transportation service, the appropriate

transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by AER and is summarized in the attached appendix.

*Comment date:* July 25, 1991, in accordance with Standard Paragraph G at the end of this notice.



## APPENDIX

Shipper name (type)	Peak day average day annual MMBtu	Receipt points	Delivery points	Rate schedule service type	ST docket start up date
Arkla Energy Marketing (Marketer).	115,000 92,000 33,580,000	OK, TX, AR, LA.....	OK, TX .....	IT, Interruptible.....	ST91-8373, 12-1-90.
Calumet Refining (Industrial) .....	4,200 4,200 1,533,000	OK, TX, AR, LA.....	LA .....	FT, Firm .....	ST91-8367, 10-26-90.
Amoco Energy Trading Corp. (Marketer).	18,606 16,606 6,061,190	OK, TX, AR, LA.....	TX .....	FT, Firm .....	ST91-6291, 12-1-90.
Arkla Energy Marketing (Marketer).	125,000 100,000 36,500,000	OK, TX, AR, LA.....	OK.....	IT, Interruptible.....	ST91-8607, 11-1-90.
Arkla Energy Marketing (Marketer).	150,000 120,000 43,800,000	OK, TX, AR, LA.....	MO.....	IT, Interruptible.....	ST91-8810, 12-22-90.
Enron Gas Marketing (Marketer).	150,000 120,000 43,800,000	OK, TX, AR, LA.....	OK, TX, AR, LA.....	IT, Interruptible.....	ST91-8606, 2-14-91.

## 5. Northern Natural Gas Company

[Docket No. CP91-2242-000]

June 11, 1991.

Take notice that on June 10, 1991, Northern Natural Gas Company (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP91-2242-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Enron Oil & Gas Company, a producer, under the blanket certificate issued in Docket No. CP86-435-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern states that, pursuant to an agreement dated May 10, 1991, under its Rate Schedule IT-1, it proposes to transport up to 50,000 MMBtu per day equivalent of natural gas. Northern indicates that it would transport 37,500 MMBtu on an average day and 18,250,000 MMBtu annually. Northern

further indicates that the gas would be transported from various receipt points, and would be redelivered in Kansas, Texas, Oklahoma, Wisconsin, and Iowa.

Northern advises that service under § 284.223(a) commenced May 10, 1991, as reported in Docket No. ST91-8862-000.

*Comment date:* July 26, 1991, in accordance with Standard Paragraph G at the end of this notice.

## 6. Transcontinental Gas Pipe Line Corporation, et al.

[Docket Nos. CP91-2197-000, \* CP91-2198-000, CP91-2199-000, CP91-2200-000]

June 11, 1991.

Take notice that the above referenced companies (Applicants filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under their

\* These prior notices requests are not consolidated.

blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by the Applicants and is included in the attached appendix.

The Applicants also state that each would provide the service for each shipper under an executed transportation agreement, and that the Applicants would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

*Comment date:* July 26, 1991, in accordance with Standard Paragraph G at the end of this notice.

Docket No. (date filed)	Applicant	Shipper name	Peak day, <sup>1</sup> average, annual	Points of <sup>2</sup>		Start up date, rate schedule	Related <sup>3</sup> dockets
				Receipt	Delivery		
CP91-2197-000 (6-06-91)	Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77251.	Cokinos Natural Gas Company.	75,000 30,000 10,950,000	OTX, OLA .....	TX, LA .....	04-19-91, IT .....	ST91-8673-000, CP88-328-000.



Docket No. (date filed)	Applicant	Shipper name	Peak day, <sup>1</sup> average, annual	Points of <sup>2</sup>		Start up date, rate schedule	Related <sup>3</sup> dockets
				Receipt	Delivery		
CP91-2198-000 (6-06-91)	Columbia Gulf Transmission Company, P.O. Box 683, Houston, Texas 77001.	Enron Gas Marketing, Inc.	130,000 50,000 18,250,000	LA, OLA .....	LA, OLA, TN, MS.....	04-24-91, IT-1 & IT-2.	ST91-8458-000, CP86-239-000.
CP91-2199-000 (6-06-91)	Sea Robin Pipeline Company, P.O. Box 2563, Birmingham, Alabama 35202- 2563.	Louis Dreyfus Energy Corporation.	100,000 100,000 36,500,000	OLA .....	LA .....	02-90, ITS.....	ST91-8781-000, CP88-824-000.
CP91-2200-000 (6-07-91)	Stingray Pipeline Company, 701 East 22nd St., Lombard, Illinois 60148.	NGC Transporta- tion, Inc.	100,000 40,000 14,600,000	LA, OLA, OTX .....	LA, OTX .....	04-01-91, ITS .....	ST91-8739-000, RP89-70-000.

<sup>1</sup> Quantities are shown in dt for Transco; MMBtu for Columbia and Stingray; and Mcf for Sea Robin.

<sup>2</sup> Offshore Louisiana and offshore Texas are shown as OLA and OTX, respectively.

<sup>3</sup> The CP and RP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

## 7. Commonwealth Gas Company

[Docket No. CI91-85-000]

June 11, 1991.

Take notice that on May 14, 1991, Commonwealth Gas Company (COMGas), a local distribution company, of 157 Cordaville Road, Southborough, Massachusetts 01772, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for an unlimited-term blanket certificate with pregranted abandonment authorizing sales for resale in interstate commerce of any natural gas including gas purchased in a first sale, imported natural gas and liquefied natural gas, natural gas purchased from interstate and intrastate pipelines and from local distribution companies, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

*Comment date:* July 1, 1991, in accordance with Standard Paragraph J at the end of this notice.

## 8. Allied Producers Gas Service, Inc.

[Docket No. CI91-81-000]

June 11, 1991.

Take notice that on May 3, 1991, Allied Producers Gas Service, Inc. (Allgas) of suite 2230, LB 127, Plaza of the Americas, 600 North Pearl Street, Dallas, Texas 75201, filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for an unlimited-term blanket certificate with pregranted abandonment authorizing sales in interstate commerce for resale of natural

gas subject to the Commission's jurisdiction including imported gas, liquefied natural gas, gas purchased from interstate natural gas pipelines pursuant to interruptible sales service programs, and gas purchased for "non-first sellers" such as intrastate pipelines and local distribution companies, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

*Comment date:* July 1, 1991, in accordance with Standard Paragraph J at the end of this notice.

## 9. Yates Petroleum Corporation

[Docket No. CI91-86-000]

June 11, 1991.

Take notice that on May 15, 1991, Yates Petroleum Corporation (Yates) of 105 South Fourth Street, Artesia, New Mexico 88210, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for an unlimited-term blanket certificate with pregranted abandonment authorizing sales in interstate commerce for resale of natural gas from any source including sales for resale of imported natural gas and liquefied natural gas, gas purchased from non-first sellers pursuant to interstate pipelines discount sales authority and gas purchased from other non-first sellers such as intrastate pipelines and local distribution companies, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

*Comment date:* July 1, 1991, in

accordance with Standard Paragraph J at the end of this notice.

## 10. Husky Gas Marketing Inc.

[Docket No. CI91-87-000]

June 11, 1991.

Take notice that on May 16, 1991, Husky Gas Marketing Inc. (HGMI), c/o Husky Oil Operations Ltd., 707-8th Avenue, SW., Box 6525, Station D, Calgary, Alberta, Canada T2P 3G7, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for an unlimited-term blanket certificate with pregranted abandonment authorizing sales for resale in interstate commerce of any natural gas including all NCPA categories of NGA gas, imported natural gas or liquefied natural gas, and natural gas sold under any existing or subsequently approved pipeline blanket certificate authorizing interruptible sales of surplus system supply, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

*Comment date:* July 1, 1991, in accordance with Standard Paragraph J at the end of this notice.

## 11. Doswell Limited Partnership

[Docket No. CI91-88-000]

June 11, 1991.

Take notice that on May 20, 1991, Doswell Limited Partnership (Doswell) of 2112 West Laburnum Avenue, suite 108, Richmond, Virginia 23227, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for an unlimited-term blanket certificate



with pregranted abandonment authorizing sales for resale in interstate commerce of all NGPA categories of gas subject to the Commission's NGA jurisdiction, gas purchased from non-first sellers such as intrastate pipelines and local distribution companies, imported natural gas or liquified natural gas, and natural gas sold under any existing or subsequently approved pipeline blanket certificate authorizing interruptible sales of surplus system supply, all as more fully set forth in the applications which is on file with the Commission and open for public inspection.

*Comment date:* July 1, 1991, in accordance with Standard Paragraph J at the end of this notice.

## 12. National Fuel Gas Supply Corporation

[Docket Nos. CP91-2234-000, CP91-2235-000, CP91-2236-000, CP91-2237-000, CP91-2238-000, CP91-2239-000, CP91-2240-000]

June 12, 1991.

Take notice that on June 10, 1991, National Fuel Gas Supply Corporation (National), 10 Lafayette Square, Buffalo, New York 14203, filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under its blanket certificate issued in Docket No. CP89-1582-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the

requests that are on file with the Commission and open to public inspection.<sup>5</sup>

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by National and is summarized in the attached appendix.

*Comment date:* July 29, 1991, in accordance with Standard Paragraph G at the end of this notice.

<sup>5</sup> These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-2234-000 (6-10-91)	Reliance Gas Marketing Company.	20,000 20,000 7,300,000	NY, PA.....	NY, PA.....	1-2-91, IT, Interruptible.	ST91-8475-000, 4-2-91.
CP91-2235-000 (6-10-91)	Northridge Petroleum Marketing, Inc.	20,000 20,000 7,300,000	NY, PA.....	NY, PA.....	12-28-90, IT, Interruptible.	ST91-8503-000, 4-3-91.
CP91-2236-000 (6-10-91)	Power Authority of the State of New York.	200,000 200,000 73,000,000	NY, PA.....	NY, PA.....	1-2-91, IT, Interruptible.	ST91-8473-000, 4-2-91.
CP91-2237-000 (6-10-91)	The Polaris Pipeline Company.	24,137 24,137 8,810,005	NY, PA.....	NY, PA.....	4-4-91, IT, Interruptible.	ST91-8499-000, 4-12-91.
CP91-2238-000 (6-10-91)	Atlas Gas Marketing, Inc.	14,142 14,142 5,161,830	NY, PA.....	NY, PA.....	12-28-90, IT, Interruptible.	ST91-8476-000, 4-1-91.
CP91-2239-000 (6-10-91)	O & R Energy, Inc.....	50,000 50,000 18,250,000	NY, PA.....	NY, PA.....	12-28-90, IT, Interruptible.	ST91-8481-000, 4-4-91.
CP91-2240-000 (6-10-91)	Boston Gas Company .....	100,000 100,000 36,500,000	NY, PA.....	NY, PA.....	12-28-90, IT, Interruptible.	ST91-8486-000, 4-3-91.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

## Standard Paragraph

J. Any person desiring to be heard or make any protest with reference to said filings should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,  
Secretary.

[FR Doc. 91-14673 Filed 6-19-91; 8:45 am]  
BILLING CODE 6717-01-M

[Docket Nos. CP91-2207-000, et al.]

## Viking Gas Transmission Company, et al.; Natural Gas Certificate Filings

July 13, 1991.

Take notice that the following filings have been made with the Commission:



**1. Viking Gas Transmission Company**

[Docket No. CP91-2207-000]

Take notice that on June 7, 1991, Viking Gas Transmission Company (Viking), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP91-2207-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Wisconsin Public Service Corporation, an LDC, under the blanket certificate issued in Docket No. CP90-273-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Viking states that, pursuant to an agreement dated September 21, 1990, under its Rate Schedule IT-2, it proposes to transport up to 11,820 Dth per day equivalent of natural gas. Viking indicates that the gas would be transported from Wisconsin, Minnesota, and North Dakota, and would be redelivered in Wisconsin, Minnesota, and North Dakota. Viking further indicates that it would transport 11,820 Dth on an average day and 4,314,300 Dth annually.

Viking advises that service under § 284.223(a) commenced February 1, 1991, as reported in Docket No. ST91-8898.

*Comment date:* July 29, 1991, in accordance with Standard Paragraph G at the end of this notice.

**2. Columbia Gas Transmission Corporation**

[Docket No. CP91-2249-000]

Take notice that on June 10, 1991, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE, Charleston, West Virginia 25314, filed in Docket No. CP91-2249-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to install and operate on new delivery point as a jurisdictional sales facility to accommodate natural gas deliveries to Delta Natural Gas Company, Inc. (Delta)

in Lee County, Kentucky for the Market Area of Beattyville, under Columbia's blanket certificate issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

It is said that the sales through this delivery point would be under Columbia's SGS rate schedule to Delta for residential, commercial and/or industrial service. It is further said that the quantities to be provided through the new delivery point are within Columbia's currently authorized level of service and would be within existing peak day entitlements of Delta.

*Comment date:* July 29, 1991, in accordance with Standard Paragraph G at the end of this notice.

**3. Panhandle Eastern Pipe Line Company**

[Docket No. CP91-2169-000]

Take notice that on June 3, 1991, Panhandle Eastern Pipe Line Company (Panhandle) filed in Docket CP91-2169-000 an application pursuant to section 7(b) and 7(c) of the Natural Gas Act for permission and approval to abandon partially the sale of natural gas to Central Illinois Light Company (CILCO) and for authorization to increase the service level for Northern Indiana Public Service Company (NIPSCO), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle states that it serves CILCO and NIPSCO pursuant to Panhandle's Rate Schedule G. It is stated that due to recent developments, CILCO and NIPSCO have executed new service agreements to reflect their desired level of contract demand quantity. Panhandle indicates that CILCO's new service agreement would provide for a reduction of its contract demand levels and that NIPSCO's new service agreement would reallocate its summer period monthly contract demand levels, resulting in an overall increase in its annual contract demand. Panhandle states that each of these service agreements would be effective April 1, 1991, and would

continue until October 31, 1992.

Panhandle indicates that CILCO's annual contract demand would decrease by 4,071,225 Mcf from the current figure of 27,156,525 Mcf to 23,085,300 Mcf. Panhandle further indicates that NIPSCO's annual contract demand would increase by 14,900 Mcf from the current figure of 18,803,800 Mcf to 18,818,700 Mcf. Panhandle requests an effective date of April 1, 1991.

*Comment date:* July 5, 1991, in accordance with Standard Paragraph F at the end of this notice.

**4. United Gas Pipe Line Company; Transcontinental Gas Pipe Line Corporation**

[Docket Nos. CP91-2247-000, CP91-2248-000]

Take Notice that United Gas Pipe Line Company, P.O. Box 1478, Houston, Texas 77251-1478, and Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77251, (Applicants) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under the blanket certificates issued in Docket No. CP88-6-000 and Docket No. CP88-328-000, respectively, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.<sup>1</sup>

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

*Comment date:* July 29, 1991, in accordance with Standard Paragraph G at the end of this notice.

<sup>1</sup> These prior notice requests are not consolidated.

**APPENDIX**

Docket No. (date filed)	Shipper name (type)	Peak day average day annual MMBtu	Receipt <sup>1</sup> points	Delivery points	Contract date rate schedule service type	Related docket, start up date
CP91-2247-000 (6-10-91)	Tejas Hydrocarbons Company (marketer).	154,500 154,500 56,392,500	LA, OLA, TX, MS.....	LA, TX, MS.....	1-13-88 ITS Interruptible.	ST91-8854, 5-30-91.



## APPENDIX—Continued

Docket No. (date filed)	Shipper name (type)	Peak day average day annual MMBtu	Receipt <sup>1</sup> points	Delivery points	Contract date rate schedule service type	Related docket, start up date
CP91-2248-000 ST91-8788 (6-10-91)	Mosbacher Energy Company (producer).	<sup>2</sup> 200 200 73,000	MS.....	MS.....	1-16-91 ITS Interruptible.	4-22-91.

<sup>1</sup> Offshore Louisiana and offshore Texas are shown as OLA and OTX.<sup>2</sup> Measured in dt equivalent.**5. Louisiana-Nevada Transit Company**

[Docket No. CP91-2160-000]

Take notice that on May 31, 1991, Louisiana-Nevada Transit Company (LNT), P.O. Box 488, Hope, Arkansas 71801, LNT filed a request with the Commission in Docket No. CP91-2160-000 pursuant to section 7(b) of the Natural Gas Act, as amended, and part 157 of the Regulations thereunder, for permission and approval to abandon service to: (1) Arkansas Louisiana Gas Company (Arkla) under LNT's Rate Schedule G-1; and (2) United Gas Pipe Line Company (United) under LNT's Rate Schedule X-2. LNT states that it also proposes to cancel said Rate Schedules G-1 and X-2, all as more fully set forth in the application on file with the Commission and open to public inspection.

LNT states that the service to Arkla sought to be abandoned was authorized by Commission order issued September 30, 1981, in Docket No. G-1440-001, where LNT was authorized to sell to Arkla up to 5,000 Mcf of natural gas per day, but not more than 1,013,185 Mcf of gas for any 12-month period beginning September 1 of each year. LNT also states that by notice dated September 4, 1986, LNT notified United that LNT did not wish to renew the subject service agreement, and that Arkla, by letter dated December 18, 1986, notified LNT of the cancellation of that service agreement, effective December 17, 1986.

It is asserted that such service has been provided under LNT's Rate Schedule G-1, which LNT proposes to cancel.

LNT indicates that the service to United sought to be abandoned was authorized by Commission order issued February 27, 1981, in Docket No. CP80-488. LNT avers that such order authorized it to sell to United certain imbalance gas in connection with an exchange agreement, and certain other volumes of gas as LNT may have available. LNT states that such sales were made pursuant to a gas purchase agreement dated August 5, 1980, which contained a 10-year term, that sales terminated as of February 1987, and that such agreement has terminated by its terms. It is stated such service has been provided under LNT's Rate Schedule X-2, which LNT proposes to cancel.

In addition, it is stated that LNT requests an effective date of June 1, 1991, for abandonment to both Arkla and United, to coincide with the proposed effective date in a section 4 rate filing submitted to the Commission concurrently with the abandonment application.

*Comment date:* July 5, 1991, in accordance with Standard Paragraph F at the end of this notice.

**6. National Fuel Gas Supply Corporation**

[Docket Nos. CP91-2226-000, CP91-2227-000]

Take notice that the above referenced companies (Applicants) filed in

respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.<sup>2</sup>

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

The Applicants also state that each would provide the service for each shipper under an executed transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

*Comment date:* July 29, 1991, in accordance with Standard Paragraph G at the end of this notice.

<sup>2</sup> These prior notice requests are not consolidated.

## APPENDIX

Docket No. (date filed)	Applicant	Shipper name	Peak day, <sup>1</sup> average annual	Points of		Start up date, rate schedule	Related <sup>2</sup> dockets
				Receipt	Delivery		
CP91-2226-000 6-10-91	National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, NY 14203.	Appalachian Gas Sales, Inc.	20,000 20,000 7,300,000	NY, PA .....	NY, PA .....	IT, Interruptible 4-5-91.	CP89-1582-000, ST91-8478-000.



## APPENDIX—Continued

Docket No. (date filed)	Applicant	Shipper name	Peak day, <sup>1</sup> average annual	Points of		Start up date, rate schedule	Related <sup>2</sup> dockets
				Receipt	Delivery		
CP91-2227-000 6-10-91	National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, NY 14203.	Trinity Pipeline Incorporated.	60,000 60,000 2,190,000	NY, PA .....	NY, PA .....	IT, interruptible 4- 3-91.	CP89-1582-000, ST91-8474-000.

<sup>1</sup> Quantities are shown in MMBtu unless otherwise indicated.<sup>2</sup> The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.**7. El Paso Natural Gas Company, et al.**

[Docket Nos. CP91-2216-000, CP91-2217-000, CP91-2218-000, CP91-2219-000, and CP91-2220-000]

Take notice that the above referenced companies (Applicants) filed in respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully

set forth in the prior notice requests which are on file with the Commission and open to public inspection.<sup>3</sup>

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223

<sup>3</sup> These prior notice requests are not consolidated.

of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

The Applicants also states that each would provide the service for each shipper under an executed transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

*Comment date:* July 29, 1991, in accordance with Standard Paragraph G at the end of this notice.

## APPENDIX

Docket No. (date filed)	Applicant	Shipper name	Peak day, <sup>1</sup> average, annual	Points of		Start up date, rate schedule	Related <sup>2</sup> dockets
				Receipt	Delivery		
CP91-2216-000 6-7-91	El Paso Natural Gas Company, P.O. Box 1492, El Paso, TX 79978.	Bridge Gas U.S.A. Inc.	206,000 206,000 75,190,000	All on system points.	AZ .....	5-17-91, T-1 .....	ST91-8893-000
CP91-2217-000 6-10-91	National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, NY 14203.	BP Gas, Inc. ....	25,000 25,000 9,125,000	NY, PA .....	NY, PA .....	4-5-91, IT .....	ST91-8483-000
CP91-2218-000 6-10-91	National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, NY.	New Jersey Natural Gas Company.	630 630 229,950	NY, PA .....	NY, PA .....	4-3-91, IT .....	ST91-8515-000
CP91-2219-000 6-10-91	National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, NY 14203.	Niagara Gas Transmission.	1,000 1,000 365,000	NY, PA .....	NY, PA .....	4-4-91, IT .....	ST91-8485-000
CP91-2220-000 6-10-91	National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, NY 14203.	Aquila Energy Marketing Corporation.	150,000 150,000 54,750,000	NY, PA .....	NY, PA .....	4-3-91, IT .....	ST91-8482-000

<sup>1</sup> Quantities are shown in MMBtu unless otherwise indicated.<sup>2</sup> The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.



**8. National Fuel Gas Supply Corporation**

[Docket Nos. CP91-2221-000, CP91-2222-000, CP91-2223-000, CP91-2224-000, CP91-2225-000]

Take notice that Applicant filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate pursuant to section 7 of the Natural Gas Act, all as more fully set

forth in the requests that are on file with the Commission and open to public inspection.<sup>4</sup>

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's

<sup>4</sup> These prior notice requests are not consolidated.

Regulations, has been provided by Applicant and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

*Comment date:* July 29, 1991, in accordance with Standard Paragraph G at the end of this notice.

*Applicant:* National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, NY 14203.  
Blanket Certificate, Issued in Docket No. CP89-1582-000.

**APPENDIX**

Docket No. (date filed)	Shipper name (type shipper)	Peak day <sup>1</sup> avg. annual	Points of		Start up date rate schedule	Related <sup>2</sup> dockets
			Receipt	Delivery		
CP91-2221-000 (06-10-91)	Energy Marketing Exchange, Inc.	88,550 88,550 32,320,750	NY, PA.....	NY, PA.....	04-04-91, IT.....	ST91-8501-000
CP91-2222-000 (06-10-91)	Ocean State Limited Partnership.	50,000 50,000 18,250,000	NY, PA.....	NY, PA.....	04-02-91, IT.....	ST91-8504-000
CP91-2223-000 (06-10-91)	Meridian Oil Trading, Inc..	100,000 100,000 36,500,000	NY, PA.....	NY, PA.....	04-03-91, IT.....	ST91-9495-000
CP91-2224-000 (06-10-91)	V.H.C. Gas Systems .....	100,000 100,000 36,500,000	NY, PA.....	NY, PA.....	04-04-91, IT.....	ST91-8505-000
CP91-2225-000 (06-10-91)	Chautauqua Energy, Inc...	20,000 20,000 7,300,000	NY, PA.....	NY, PA.....	04-03-91, IT.....	ST91-8498-000

<sup>1</sup> Quantities are shown in MMBtu unless otherwise indicated.

<sup>2</sup> If an ST docket is shown, 120-day transportation service was reported in it.

**Standard Paragraphs**

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to

jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the

issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,  
Secretary.

[FR Doc. 91-14674 Filed 6-19-91; 8:45 am]  
BILLING CODE 6717-01-M



[Docket No. TM91-8-4-000]

**Granite State Gas Transmission, Inc.;  
Proposed Changes in Rates**

June 14, 1991.

Take notice that on June 12, 1991, Granite State Gas Transmission, Inc. (Granite State), 300 Friberg Parkway, Westborough, Massachusetts 01581 filed the tariff sheets listed below in its FERC Gas Tariff, Second Revised Volume No. 1, proposing changes in rates.

Second Revised Sixth Revised Sheet No. 21  
Second Revised Sheet No. 22  
Third Revised Sheet No. 24

Granite State proposes an effective date of July 1, 1991 for Second Revised Sixth Revised Sheet No. 21 and Second Revised Sheet No. 22. Granite State proposes an effective date of July 13, 1991 for Third Revised Sheet No. 24.

According to Granite State, its filing is submitted to track the passthrough to its customers of take-or-pay buydown and buyout costs charged Granite State by Tennessee Gas Pipeline Company (Tennessee).

Granite State states that on May 31, 1991, Tennessee filed revised tariff sheets to recover additional new transition costs in Docket No. RP91-29-006. According to Granite State, its tariff sheets reflect the changes in Tennessee's allocation of take-or-pay costs to Granite State in the May 31, 1991 Tennessee filing, and also comply with the requirements of the reallocation of costs to small customers pursuant to Order No. 528-A.

According to Granite State the proposed rate changes are applicable to its jurisdictional sales services rendered to Bay State Gas Company and Northern Utilities, Inc. and to a sale to a direct customer, Pease Air Force Base. Granite State further states that copies of its filing were served upon its customers and the regulatory commissions of the states of Maine, New Hampshire and Massachusetts.

Any person desiring to be heard or to make any protest with reference to said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before June 21, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a

party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection. Lois D. Cashell,

*Secretary.*

[FR Doc. 91-14677 Filed 6-19-91; 8:45 am]

BILLING CODE 6717-01-44

[Docket No. TA88-3-7-001]

**Southern Natural Gas Co.; Request for  
Authorization for Residual Three-Year  
Surcharge Balance**

June 14, 1991.

Take notice that on May 16, 1991, Southern Natural Gas Company (Southern), filed with the Commission a request for authorization from the Commission to transfer to its regular Account No. 191 that unrecovered portion of the principal amount included in the three-year surcharge adjustment authorized by the Commission in Docket Nos. TA88-3-7-000, as of the end of the three-year surcharge period, April 1, 1991.

Southern states that the amount to be transferred (\$4,464,559) represents less than 14% of the initial balance, and includes no interest since all interest was computed as if the entire principal balance of the three-year surcharge was to be recovered in one year.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214 and 385.211. All such protests should be filed on or before June 21, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

*Secretary.*

[FR Doc. 91-14681 Filed 6-19-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP89-224-000, RP89-203-000,  
RP90-139-000 and RP91-69-000]**Southern Natural Gas Co.; Informal  
Settlement Conference**

Dated: June 14, 1991.

Take notice that an informal settlement conference will be convened in this proceeding on June 26, 1991, at 9 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Besty R. Carr at (202) 208-1240 or James A. Pederson at (202) 208-2158.

Lois D. Cashell,

*Secretary.*

[FR Doc. 91-14682 Filed 6-19-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-72-003]

**Texas Eastern Transmission Corp.;  
Proposed Changes in FERC Gas Tariff**

June 14, 1991.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on June 11, 1991 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheets.

**Proposed to be Effective February 15,  
1991**

Sub Eleventh Revised Sheet No. 72  
Sub Eleventh Revised Sheet No. 73  
Sub Tenth Revised Sheet No. 74  
Sub Eleventh Revised Sheet No. 75  
Sub Alt Original Sheet No. 483.1  
Sub Alt Original Sheet No. 483B.1  
Sub Original Sheet No. 483F.1

**Proposed to be Effective April 28, 1991**

1st Revised Original Sheet No. 483D.1

**Proposed to be Effective July 1, 1991**

Sub First Revised Sheet No. 483D.1

Texas Eastern states that the purpose of this filing is to revise the date through which carrying charges on excess take-or-pay surcharge amounts were collected in Docket Nos. RP91-73, RP91-74, and RP91-75 and set forth a refund provision to refund amounts to customers that have paid excess take-or-pay surcharge amounts in Docket No. RP91-72.

The proposed effective dates of the tariff sheets are as listed above.

Texas Eastern states that copies of the filing were served on Texas Eastern's jurisdictional customers,



interested state commissions and all parties in Docket Nos. RP91-72, *et al.*

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214 and 385.211. All such protests should be filed on or before June 21, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-14678 Filed 6-19-91; 8:45 am]

BILLING CODE 8717-01-M

## Office of Fossil Energy

[Fe Docket No. 91-22-NG]

### Bonus Gas Processors, Inc.; Blanket Authorization To Import and Export Natural Gas, Including Liquefied Natural Gas

**AGENCY:** Department of Energy, Office of Fossil Energy.

**ACTION:** Notice of an order granting blanket authorization to import and export natural gas, including liquefied natural gas.

**SUMMARY:** The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued an order granting Bonus Gas Processors, Inc. blanket authorization to import and export a combined total of up to 110 Bcf of natural gas, including liquefied natural gas, over a two-year period beginning on the date of first import or export. Under this order, Bonus is authorized to import and export natural gas from and to any country with which trade in natural gas has not been prohibited.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, June 13, 1991.  
Clifford P. Tomaszewski,  
Acting Deputy Assistant Secretary for Fuels  
Programs, Office of Fossil Energy.  
[FR Doc. 91-14716 Filed 6-19-91; 8:45 am]  
BILLING CODE 6450-01-M

## Office of Hearings and Appeals

### Issuance of Decisions and Orders During the Week of May 13 Through May 17, 1991

During the week of May 13 through May 17, 1991 the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

#### Appeals

*Daniel P. Smith, 5/16/91, LFA-0110*

Daniel P. Smith (Smith) filed an Appeal from a denial by the Department of Energy's Chicago Operations Office (COO) of a Request for Information which Smith had filed under the Freedom of Information Act (FOIA). In his request, Smith sought a technical proposal that Engineering Resources, Inc. had submitted to COO in response to a Notice of Program Interest. COO released to Smith a copy of the proposal that COO had redacted pursuant to Exemption 4 of the FOIA. In his Appeal, Smith sought the deleted portions of the portions of the proposal. The Office of Hearings and Appeals (OHA) found that COO had properly withheld certain secrets and proprietary commercial information under Exemption 4, but had failed to segregate and release non-exempt items from the proposal. Consequently, OHA remanded the case to COO for segregation and release of non-exempt information.

*James L. Schwab, 5/17/91, LFA-115*

James L. Schwab filed an Appeal from a determination issued by the DOE's Freedom of Information and Privacy Acts Activities Branch (FOI Branch) of a request for information under the Freedom of Information Act. Mr. Schwab, a former employee of a DOE subcontractor, requested information concerning the termination of his employment. The FOI Branch interpreted Schwab's request to mean that he was seeking documents concerning the termination of his employment by the DOE. Because Schwab had never been employed by the DOE, and had not been terminated

by the agency, the FOI Branch determined that no responsive documents could possibly exist. In considering the Appeal, the Office of Hearings and Appeals (OHA) found that although the request submitted by Schwab contained some inaccuracies, and could possibly be interpreted in the manner chosen, the FOI Branch, should have attempted to clarify the request. Accordingly, the OHA granted Schwab's Appeal, and remanded the matter to the FOI Branch to make a new determination on the Appellant's restated request.

#### Refund Application

*Atlantic Richfield Company/Agway Petroleum Corporation, 5/15/91, RF304-1922*

The DOE issued a Decision and Order in the ARCO special refund proceeding concerning an Application for Refund filed by Agway Petroleum Corporation (Agway). Agway, a farm supply and food marketing agricultural cooperative owned by 90,000 member-stockholders, resold a total of 68,210,475 gallons of propane, gasoline and #2 heating fuel to members as well as non-members. Agway was granted a full volumetric refund under the end-user/cooperative presumption of injury based on the 1,943,999 gallons of ARCO product that it sold to members. The full volumetric refund yielded \$2,088 (\$1,429 in principal and \$659 in interest). Agway was then granted a medium range presumption of injury refund for the 66,266,476 gallons of ARCO products that it resold to non-members. The medium range refund yielded \$29,177 (\$19,969 in principal plus \$9,208 in interest). The total amount of the refund granted in the Decision was \$31,265 (\$21,398 in principal and \$9,867 in interest).

*Atlantic Richfield Company/Galassos Arco Service, Et Al., 5/13/91, RF304-3486, et al.*

The DOE issued a Decision and Order concerning nine applications for refund in the Atlantic Richfield Company (ARCO) special refund proceeding. Each of the applications had originally been filed by P.A.D., a "filing service" that was subsequently barred from representing any refund claimants before the DOE. Second applications were then filed on behalf of the same claimants under the same case numbers by Akin Energy, Inc. and/or Fuel Refunds, Inc. The DOE granted refunds to all nine applicants and directed that the refunds be paid directly to the applicants on the basis that the Akin Energy and Fuel Refunds submissions were superfluous and not considered.



The refunds granted in this decision totaled \$13,628, including \$4,280 in accrued interest.

*Exxon Corporation/Fred Wachel Exxon Et Al.*, 5/17/91, RF307-6220 et al.

The DOE issued a Decision and Order concerning five Applications for Refund filed in the Exxon Corporation special refund proceeding. All of these applications involved two retail outlets that operated as partnerships. Each of the outlets purchased directly from Exxon and was a reseller whose allocable share is less than \$5,000. Each applicant was determined to be eligible for either one-half or one-fourth of the allocable share of his respective outlet. The sum of the refunds granted in this Decision is \$1,461 (\$1,041 principal plus \$420 interest).

*Exxon Corporation/GAF Corporation*, 5/17/91, RF307-9243

The DOE issued a Decision and Order concerning an Application for Refund filed by GAF Corporation in the Exxon Corporation special refund proceeding. GAF, an end-user of products purchased directly from Exxon, was found to be eligible to receive a refund equal to its full allocable share. The refund granted in this Decision is \$13,066 (\$9,315 principal plus \$3,751 interest).

*Gulf Oil Corporation/Dock Rabon Gulf, North Trimble Car Wash, Inc.*, 5/13/91, RR300-19, RR300-20

The DOE issued a Decision and Order concerning Motions for Reconsideration filed by Dock Rabon Gulf and North Trimble Car Wash, Inc. in the Gulf Oil Corporation special refund proceeding. Both applicants had previously filed Applications for Refund in the Gulf Proceeding which were dismissed because the applicants did not provide the information requested by the DOE. In their motions, the applicants provided the required information. Both motions were granted and the applicants were granted refunds totaling \$1,596.

*North Bergen Piece Dye Works*, 5/16/91, RF272-52576

North Bergen Piece Dye Works (North Bergen), a company that consumed petroleum products in the process of dyeing and finishing textiles, filed an Application for Refund in the subpart V crude oil special refund proceeding being conducted by the Office of Hearings and Appeals of the Department of Energy (DOE). The North Bergen Application had been filed by Federal Action, a filing service. The DOE determined, after conversations with the President of Federal Action, that Federal Action had inadequately represented the Applicant and thus the

refund would be sent directly to North Bergen. In order to derive the amount of the firm's purchases, the DOE determined the average prices for No. 6 heating oil for the years 1973, 1974, 1975, and 1981. As an end-user, North Bergen Piece Dye Works received a refund of \$727.

*Quintana Energy Corporation, et al./Texaco, Inc.*, 5/14/91, RF332-1

The Office of Hearings and Appeals (OHA) issued a Decision and Order concerning an Application for Refund submitted in the Quintana Energy Corporation, et al., special refund proceeding by Texaco, Inc. The OHA made an initial determination that Texaco was a spot purchaser. The OHA notified Texaco about the initial determination and gave Texaco an opportunity to either show that it was not a spot purchaser or prove that it was injured by its purchases from the consent order firm. Texaco did not respond. Accordingly, the OHA denied Texaco's claim based upon the presumption of non-injury for spot purchasers.

*Shell Oil Company/Western Motor Service, Inc., Western Motors Service, Inc.*, 5/14/91, RF315-7032, RF315-10136

The DOE issued a Decision and Order denying the refund application of Kiyoshi Teshima, former owner of Western Motor Service, Inc., and granting the application of Elvin Kaiakapu, present owner of Western Motors Service, Inc. The sale transaction between Mr. Teshima and Mr. Kaiakapu transferred all of the corporation's stock and assets, including the right to receive a refund, to Mr. Kaiakapu.

*Texaco, Inc./Coulter Oil Company, Inc.*, Et Al., 5/17/91, RF321-6866 Et Al.

The DOE issued a Decision and Order concerning six Applications for Refund filed in the Texaco Inc. special refund proceeding. The six applicant firms were owned by the same corporation, but requested that the applications be considered separately because the firms had been unrelated during the consent order period. This request was denied and the purchase volumes were combined in determining the applicable presumption of injury. The sum of the refunds granted in this Decision is \$14,464 (\$11,712 principal and \$2,752 interest).

*Texaco Inc./Fred C. Burns Distributing Co. Et Al.*, 5/16/91, RF321-2309 Et Al.

The DOE issued a Decision and Order concerning four Applications for Refund

filed in the Texaco Inc. special refund proceeding. The Applications were all based on the purchases of Texaco products by Fred C. Burns, a Texaco jobber and consignee. Two applications, filed by Fred C. Burns Distributing Co., the corporation that purchased the business were denied because the right to a refund was not transferred upon the sale of the business. The firm was a sole proprietorship before the sale and it was found that there was not transfer of the rights to the refund with the sale of the business. The other applications, filed by Fred C. Burns, the owner of the business during the consent order period, were approved. The refund granted was \$12,349 (\$10,000 principal plus \$2,349 interest).

*Texaco Inc./Freeway Texaco*, 5/14/91, RR321-24

Robert A. Williams filed a Motion for Reconsideration of a Decision and Order that denied a refund application that he had filed under the name Richard Raine, the former owner of Freeway Texaco. In the Motion, Mr. Williams stated that he had signed Mr. Raine's name because during a portion of the refund period Mr. Raine was the lessee of the station. Mr. Williams also asserted that he intended to forward to Mr. Raine a portion of the refund attributable to the period of time in which Mr. Raine operated the station. The DOE denied the Motion, finding that Mr. Williams had presented no compelling reason for reconsidering the denial of his refund application on the grounds that it had been fraudulently filed.

*Texaco Inc./Marshall's Texaco*, 5/16/91, RF321-15249

On June 15, 1990, the DOE issued a Decision and Order in the Texaco Inc. refund proceeding concerning an Application for Refund filed by Marshall's Texaco, a retailer of Texaco products. That refund was based upon the applicant's claim that he operated the retail outlet from May 1978 to January 1981, and the volume of purchases at that location between those dates. Subsequently, another applicant filed an application for refund for the same retail location for the period ending December 1978. That second applicant submitted documentary evidence to support its claim. Accordingly, the DOE found that the owner of Marshall's Texaco should repay, with interest, the portion of the refund attributable to purchases made before December 1978.

*Washington County, Cecil County Public Schools, Maryland State*



Highway Administration, State of Maryland Department of General Services, 5/17/91, RF272-63493, RF272-63496, RF272-63623, RF272-63624

The Department of Energy (DOE) issued a Decision and Order granting refund monies from crude oil overcharge funds to four governmental entities within the State of Maryland that sought refunds based on their purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. The DOE rejected objections filed by Phillip P. Kalodner, counsel for utilities, transporters and manufacturers

in regard to the latter two of these Applications. The four applicants were granted refunds totaling \$402,847.

Whiteford Transport Systems, Inc., 5/14/91, RF272-48380

The DOE issued a Decision and Order granting an Application for Refund filed in the crude oil special refund proceeding. The Applicant, Whiteford Transport Systems, Inc. (Whiteford), is a transportation and leasing company. A group of state governments and two territories of the United States (the States) objected to the application filed by Whiteford and provided evidence

concerning resellers and retailers. During the period of price controls, Whiteford was engaged in two distinct lines of business: Transportation and leasing. Whiteford has stated that during the crude oil price control period it did lease trucks to customers who were required to pay the cost of fuel. Whiteford's crude oil refund claim, however, was only for those gallons which it consumed as a transporter. The Decision determined that Whiteford was eligible to receive a refund for the gallonage identified in its refund application and granted the firm a \$20,177 refund.

### Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Agway, Inc./Defense Fuel Supply Center	RF324-49	05/15/91
Axtell Cooperative Grain Company et al.	RF272-75773	05/17/91
Exxon Corporation/Brookfield Bus Tours, Inc.	RF307-10186	05/17/91
Exxon Corporation/General Motors Corp.	RF307-8931	05/17/91
Fairfax County Government	RF272-21871	05/15/91
Guardian Industries Corp.	RF272-25974	05/17/91
Guardian Industries Corp.	RD272-25974	05/17/91
Gulf Oil Corp./Holiday Gulf on 11th	RF300-11353	05/17/91
Gulf Oil Corp./Jenkins' Service Station et al.	RF300-10912	05/16/91
Gulf Oil Corp./LJ's Gulf	RF300-11935	05/17/91
Gulf Oil Corp./State of Alabama	RF300-11532	05/13/91
Gulf Oil Corp./Virginia Concrete Company, Inc.	RF300-11399	05/16/91
Gulf Oil Corp./Whitt's Gulf Service et al.	RF300-11905	05/15/91
Gulf States Paper Corporation	RA272-40	05/14/91
Hancor, Inc. et al.	RF272-55640	05/15/91
J.F. Shea Company, Inc.	RF272-8096	05/13/91
Austin Paving Company	RF272-8212	
Austin Paving Company	RD272-8212	
Westside Construction Company	RF272-8333	
Louisiana Department of Natural Resources	RF272-20545	05/14/91
Lowry Tims Company, Inc.	RF272-73563	05/15/91
Orth Oil Company	RF272-14990	05/15/91
Richard Gough	RF272-31946	05/14/91
Shell Oil Company/Growmark, Inc.	RF315-8622	05/16/91
Shell Oil Company/J.P. Mills, Inc. et al.	RF315-492	05/16/91
Shell Oil Company/Longview Fibre Company et al.	RF315-507	05/15/91
State of Michigan	RF272-67248	05/17/91
State of Utah	RF272-59085	05/16/91
Texaco Inc./Bruce's Texaco Service et al.	RF321-899	05/14/91
Texaco Inc./Herbie Adams et al.	RF321-3797	05/17/91
Texaco Inc./Lloyd Wiemann et al.	RF321-1867	05/15/91
Texaco Inc./Lovelace Oil Co., Inc. et al.	RF321-6645	05/17/91
Texaco Inc./Servair Accessories, Inc. et al.	RF321-4739	05/14/91
Time Oil Company/Huff Petroleum Company	RF334-8	05/16/91
Total Supply, Inc. et al.	RF272-68284	05/17/91

### Dismissals

The following submissions were dismissed:

Name	Case No.
Altamount ARCO	RF304-7142
Attala County, MS	RF272-87874
Bay County, MI	RF272-87779
Becker County, MN	RF272-87778
Bill Wagter	RF315-9288
Borough of Mifflinburg, PA	RF272-87857
Broadbent's Texaco	RF321-6460
Charles Lindberg	RF272-49268
Circleville, OH	RF272-88296

Name	Case No.
City of Coalinga, CA	RF272-87849
City of Danbury, CT	RF272-87844
City of El Cajon, CA	RF272-87848
City of Ironton, OH	RF272-87858
City of Kingman, KS	RF272-87843
City of Neptune Beach, FL	RF272-87845
City of Olean, NY	RF272-87851
City of Orland, CA	RF272-87853
City of Sterling, KS	RF272-87847
City of Williamston, MI	RF272-87846
Clarke County, VA	RF272-87717
Clay's Texaco	RF321-124
Clinton County, IN	RF272-87767
Coldwater Community Schools	RF272-87603

Name	Case No.
Connecticut Stamping and Bending	RF321-6405
Copake-Taconic Hills Central S.D.	RF272-86492
Corinth Central School	RF272-87607
Crosby Texaco and Rental	RF321-4797
Dee's ARCO	RF304-7302
Dr. Pepper Bottling Co. of Galveston, Inc.	RF272-86550
Fairless Local School District	RF272-87604
Farmers Cooperative Co.	RF272-75833
Fayetteville City Elementary School District	RF272-78719
Frank's ARCO Service	RF304-6868
Fulton County, IL	RF272-87774
Greene County, Arkansas	RF272-87809



Name	Case No.
Greene County, MS.....	RF272-87773
H.B. Fuller Company.....	RF272-71336
Hainz, U.S.A.....	RF272-56467
Hereford Independent School District.....	RF272-86348
Holiday Gulf.....	RF300-15315
Humphreys County, MS.....	RF272-87770
Ionia County, MI.....	RF272-87769
Jay Fulkroad & Sons, Inc.....	RF272-89041
Jim Hogg County, TX.....	RF272-87772
Lacey ARCO.....	RF304-7244
M&E Corporation.....	RF304-6810
Marced County, CA.....	RF272-88002
Mike's ARCO.....	RF304-6839
Monk's Construction.....	RF304-4563
Moore, OK.....	RF272-88149
Nemaha County, KS.....	RF272-88108
Nettles' Texaco Self-Service.....	RF321-13756
New Hanover County, NC.....	RF272-87785
O'Brien's ARCO.....	RF304-7242
Penroyer Brothers ARCO.....	RF304-6832
Performance ARCO.....	RF304-6802
Pontotoc City Schools.....	RF272-87606
Primerica Corporation.....	RF304-11683
Raleigh Tire—ARCO.....	RF304-4202
Roaring Spring, PA.....	RF272-87842
Robert Wood University Hospital.....	RF272-86404
Rock Island County, IL.....	RF272-87886
Rockingham County, NH.....	RF272-87764
Sevier County, UT.....	RF272-87900
Simcoch & John's Texaco.....	RF321-4509
Spencer School District 43-4.....	RF272-87601
St. Charles Parish, LA.....	RF272-87898
St. Mary Parish, LA.....	RF272-87453
State of North Carolina.....	RF272-75913
Tippecanoe County, IN.....	RF272-87899
Town of Bolton, CT.....	RF272-87854
Town of Winthrop, MA.....	RF272-87850
Township of Brownsville, PA.....	RF272-87856
Trenton, MO.....	RF272-87949
University of Nebraska.....	RF272-84889
Washington County, IN.....	RF272-87901
Wauseon, OH.....	RF272-88028
Weyrick's ARCO.....	RF304-7092
Wyandot Public Schools.....	RF272-87608
Wyomissing, PA.....	RF272-87999

## EXPORT-IMPORT BANK OF THE UNITED STATES

### Open Meeting of the Advisory Committee of the Export-Import Bank of the United States; Correction

**ACTION:** Notice of correction of revised meeting agenda.

**SUMMARY:** The Advisory Committee was established by Public Law 98-181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank to the United States Congress.

**TIME AND PLACE:** Tuesday, July 2, 1991, from 9:30 a.m. to 12 noon. The meeting will be held at Eximbank in room 1143, 811 Vermont Avenue NW., Washington, DC 20571.

**AGENDA:** This notice corrects the meeting agenda previously published in the Federal Register June 17, 1991 (56 FR 27752). The revised agenda will include a discussion of the following topics: Program Activity Report/Tied Aid Status, Advisory Committee Comment on Competitiveness Report, Advisory Committee Discussion of Project Financing Parameters, Subcommittee Status Reports: (Emerging Trade Finance—Small Business—Banking), Next Steps, and other topics.

All other information remains the same.

Joan P. Harris,  
Corporate Secretary.

[FR Doc. 91-14728 Filed 6-18-91; 8:45 am]

BILLING CODE 6690-01-M

appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

*Agreement No:* 224-200530.

*Title:* Virginia International Terminals, Inc./Montemar S.A. Terminal Agreement.

*Parties:*

Virginia International Terminals, Inc.  
(VIT)

Montemar S.A. (Pan American).

*Synopsis:* The Agreement provides for Pan American to have the non-exclusive use of the marine terminal facilities at Newport News Marine Terminal (Port), and VIT shall furnish terminal services connected with the operation. Pan American guarantees movement of a minimum of 35,000 short tons per year through the Port. VIT grants Pan American an incentive of 15% discount off tariff charges for wharfage, portainer rental, transtainer-toploader, maintenance and repair inspections, receiving and delivery charges. The term of agreement is for three years.

By Order of the Federal Maritime Commission.

Dated: June 17, 1991.

Joseph C. Polking,  
Secretary.

[FR Doc. 91-14692 Filed 6-19-91; 8:45 am]

BILLING CODE 6730-01-M

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: June 14, 1991.

George B. Breznay,  
Director, Office of Hearings and Appeals.  
[FR Doc. 91-14715 Filed 6-19-91; 8:45 am]

BILLING CODE 6450-01-M

## FEDERAL MARITIME COMMISSION

### Virginia International Terminals, Inc., et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice

### P&O Containers, Ltd., et al.; Request for Additional Information

*Agreement No.:* 203-011330.

*Title:* Information System Agreement.

*Parties:*

P&O Containers, Ltd.,  
American President Lines, Ltd.,  
Sea-Land Service, Inc.,  
A.P. Moller-Maersk Line.

*Synopsis:* Notice is hereby given that the Federal Maritime Commission, pursuant to section 6(d) of the Shipping Act of 1984 (46 U.S.C. app. 1705), has requested additional information from the parties to the Agreement in order to complete the statutory review of Agreement No. 203-011330 required by



the Act. This action extends the review period as provided in section 6(c) of the Act.

By Order of the Federal Maritime Commission.

Dated: June 17, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91-14690 Filed 6-19-91; 8:45 am]

BILLING CODE 6730-01-M

### **Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)**

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89-777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended: Star Clippers, Inc., Luxembourg Shipping Services, S.A. and White Star Clippers, N.V., 2833 Bird Avenue, Miami, FL 33133-4604. Vessel: Star Flyer.

Dated: June 17, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91-14691 Filed 6-19-91; 8:45 am]

BILLING CODE 6730-01-M

### **Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)**

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89-777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended: Star Clippers, Inc., Luxembourg Shipping Services, S.A. and White Star Clippers, N.V., 2833 Bird Avenue, Miami, FL 33133-4604. Vessel: Star Flyer.

Dated: June 17, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91-14692 Filed 6-19-91; 8:45 am]

BILLING CODE 6730-01-M

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Agency for Toxic Substances and Disease Registry**

[Announcement Number 127]

#### **Pilot and Epidemiologic Studies To Determine the Relationship Between Human Exposure to Hazardous Substances and Adverse Health Outcomes**

##### **Introduction**

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the continuation of its Superfund-related cooperative agreement/grant program to conduct pilot studies, analytic epidemiologic studies, and site-specific surveillance to determine the relationship between human exposure to hazardous substances in the environment and adverse health outcomes (e.g., selected cancers, birth defects and reproductive diseases, kidney dysfunction, liver dysfunction, immune dysfunction, neurotoxic disorders, and lung and respiratory diseases). The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority areas of Environmental Health and Surveillance and Data Systems. (For ordering a copy of Healthy People 2000, see the Section **WHERE TO OBTAIN ADDITIONAL INFORMATION.**)

##### **Authority**

This program is authorized in section 104(i)(15) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) as amended by the Superfund Amendments and Reauthorization Act (SARA) [42 U.S.C. 9604(i)(15)].

##### **Eligible Applicants**

Eligible applicants are the official public health agencies of the states and the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau, the Northern Mariana Islands, American Samoa, and federally recognized Indian Tribes. Local health jurisdictions may apply with written concurrence of the state health officer.

##### **Availability Of Funds**

Approximately \$3,300,000 is available in Fiscal Year 1991 to fund

approximately 13 awards. It is expected that 8 non-competing continuations totaling approximately \$1,800,000 and about 2 to 5 new and competing renewal awards totaling \$1,500,000 will be made. It is anticipated that awards will be for a 12-month budget period with a proposed project period ranging from 1 to 3 years. The length of the project period will depend on the complexity of the problems associated with any particular hazardous substance site. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds. Pending availability of funds in Fiscal Year 1992 ATSDR will continue approved projects and may fund new projects. Funding estimates may vary and are subject to change.

##### **Purpose**

The purpose of this program is to enhance the recipients' capabilities to characterize the relationship between exposure to hazardous substances and adverse health outcomes through the development and use of site-specific health study protocols, studies at multiple sites with similar hazardous substances, and the implementation of site-specific or multiple-site health investigations.

##### **Project Types**

Assistance, both financial and technical, will be provided to the recipients for conducting the following types of projects:

##### **A. Pilot Studies of Exposed Individuals**

A pilot study is defined as any investigation of exposed individuals, using epidemiologic methods, which would assist in determining exposures or possible public health impacts by defining health problems requiring further investigation through epidemiologic studies, environmental monitoring or sampling, surveillance, or registries. A number of possible investigative plans may be available for conducting pilot studies.

1. Human biologic indicator exposure studies may consist of the sampling of biologic indicators of persons at potentially high risk of exposure to determine whether exposure can be verified. Test results will be compared with published normal values or with results from unexposed reference populations. The biologic tests may include direct assay of chemicals or their metabolites or an indirect assay testing for other biologic markers of exposure. If exposure to hazardous substances can be verified, additional investigations may be recommended to determine whether adverse health



effects are occurring. Follow-up recommendations may include public education, additional environmental sampling, additional biologic exposure studies, analytic epidemiologic studies, registries, surveillance projects, or remedial actions.

2. Cluster investigation studies are investigations of putative disease clusters to determine whether the cases represent an unexpected excess in the number of cases in the concerned community. Investigations are designed to confirm the case reports; determine whether they represent an unusual disease occurrence; and, if possible, explore possible etiologic and environmental factors. Follow-up recommendations may include public education, additional environmental sampling, biologic exposure studies, epidemiologic studies, registries, analytic surveillance projects, or remedial actions.

3. Disease- and symptom-prevalence studies are designed to measure the occurrence of self-reported diseases that may be validated through medical records, if available, or specific medical examination. In these studies investigators collect citizens' health concerns in a standardized manner and determine whether a health problem exists in the community that requires further investigation. If an unusual disease occurrence is discovered, additional investigations may be undertaken to determine etiologic factors. The recommendations developed for identified health problems may include public education, additional environmental sampling, biologic exposure studies, analytic epidemiologic studies, registries, surveillance projects, or remedial actions.

#### *B. Analytic Epidemiology Studies*

Analytic epidemiologic studies are investigations designed to evaluate the casual nature of associations between exposure to hazardous substances and disease outcome by testing scientific hypotheses. Information to be considered includes the strength of the association between two factors and the biologic plausibility of the outcome. Case-control, cohort, cross-sectional, mortality, or other scientifically valid study designs may be considered, as appropriate. Recommendations may include public education, additional environmental sampling, registries, surveillance projects, or remedial actions.

#### *Surveillance*

Surveillance at a particular site may focus on specific hazardous substances at that site as well as monitoring

plausible health outcome data (morbidity or mortality) for a specific medical condition. Periodic follow-up of a well-defined, unexposed cohort can be a useful measure of baseline patterns for that disease. The site-specific surveillance may detect usual or unusual patterns of disease; the latter may trigger further investigations, such as a pilot study of exposed individuals or an analytic epidemiologic study. Recommendations based on site-specific surveillance data may include continued surveillance, additional site-specific environmental sampling, remedial action, public education, or the development of a formal exposure or disease registry.

#### *Program Requirements*

Applicants must specify the type of award for which they are applying, either grant or cooperative agreement. These two types of federal assistance are explained below.

##### *A. Grants*

In a grant, the applicant will be required to conduct the pilot study of exposed individuals, analytical epidemiologic study, and site-specific surveillance without substantial programmatic involvement. Therefore, the grantee's application should be presented in a manner that demonstrates the applicant's ability to address the environmental health problems. In addition, the applicant's protocol should contain consent forms and questionnaires, baseline morbidity and mortality information, procedures for collecting biologic and environmental specimens and for conducting laboratory analysis and medical evaluation of the test results of biologic specimens and statistical and epidemiologic analysis of the study information, and a description of the safeguards for protecting the confidentiality of individuals on whom data are collected.

The grantee is expected to maintain accurate and timely accounting records with proper classification of expenditures to allow a full cost recovery of funds awarded under the grant.

By comparison, the activities of the recipient and the ATSDR for a cooperative agreement are described in paragraph B.

##### *B. Cooperative Agreements*

In a cooperative agreement, the funding agency will assist the collaborator in conducting the studies to determine the relationship between exposure to hazardous substances and illness. The application should be

presented in a manner that demonstrates the applicant's ability to address the health problem in a collaborative manner with the funding agency.

The cooperative activities of the recipient agency and the funding agency are:

#### *1. Recipient Activities*

a. Recipient will review Superfund related environmental sampling information, human disease surveillance information, and other appropriate information to identify populations potentially exposed to hazardous substances.

b. Recipient will design, develop, and implement a protocol to conduct the necessary pilot study of exposed individuals, epidemiologic study, or site-specific surveillance.

c. Recipient is expected to maintain accurate and timely accounting records with proper classification of expenditures to allow a full cost recovery of funds awarded under the grant or cooperative agreement.

d. Recipient is required to provide proof, by citation of State code or regulation or other state procurement given the authority of law, that medical information obtained pursuant to the agreement, which pertains to an individual and is therefore considered confidential, will be protected from disclosure when the consent of the individual to release identifying information is not obtained.

e. Recipient is required to provide written explanation to detail the disposition of technical review comments on all protocols, studies, and results of research (example: final report, scientific presentation, etc.). These technical review comments will be provided to recipient through ATSDR.

f. Recipient will develop a mechanism for ongoing interaction with the affected community.

#### *2. ATSDR Activities*

a. ATSDR will assist in developing the pilot study, analytic epidemiologic study, or site-specific surveillance.

b. ATSDR will assist in analyzing the information on background morbidity and mortality rates for the study area.

c. ATSDR will provide epidemiologic and other technical assistance in both the planning and implementation phases of the field work called for under the study protocol.

d. ATSDR will provide consultation and assist in monitoring the collection and handling of information and the sampling and testing activities.



- e. ATSDR will participate in the statistical and epidemiologic analysis.
- f. ATSDR will collaborate in interpreting the study findings.
- g. ATSDR will perform technical review as noted above.

#### Evaluation Criteria

All applications will be reviewed and evaluated based on the following criteria:

##### 1. Scientific and Technical Review Criteria of New Applications

###### a. Appropriateness and Knowledge of Study Design—30%

The extent to which the applicant's proposal addresses (1) a rationale for the proposed study design; (2) the identification of a target (exposed/diseased) population; (3) the identification of an appropriate comparison group; (4) a consideration of sample size; (5) a plan for exposure assessment and/or a plan for evaluating adverse health outcomes; and (6) a detailed plan for analysis of the data.

###### b. Proposed Study—30%

The adequacy of the proposal relevant to (1) the study purpose, objectives, and rationale; (2) the quality of program objectives in terms of specificity, measurability, and feasibility; (3) the specificity and feasibility of the applicant's timetable for implementing program activities and timely completion of the study; and (4) the likelihood of the applicant agency completing proposed program activities and attaining proposed objectives based on the thoroughness and clarity of the overall program.

###### c. Applicant Capability and Coordination Efforts—15%

The extent to which the proposal has described (1) the capability of the capability of the applicant's administrative structure to foster successful scientific and administrative management of a study; (2) the capability of the applicant to demonstrate appropriate plan for interaction with the community; and (3) the suitability of facilities and equipment available or to be purchased for the project.

###### d. Quality of Data Collection—15%

The extent to which (1) the questionnaire ascertains the information necessary to meet the objectives, including (but not limited to) information on pathways of exposure and confounding factors; (2) the quality control and quality assurance of questionnaire data are provided, including (but not limited to) interviewer

training and consistency checks of data; (3) the laboratory tests (if applicable) are sensitive and specific for the analyte or disease outcome of interest; and (4) the quality control, quality assurance, precision, and accuracy of information for the proposed tests are provided and acceptable.

###### e. Program Personnel—10%

The extent to which the proposed program staff is qualified and appropriate, and the time allocated for them to accomplish program activities is adequate.

###### f. Program Budget—(Not Scored)

The extent to which the budget is reasonable, clearly justified, and consistent with intended use of cooperative agreement/grant funds.

##### 2. Review of Continuation Applications

Continuation awards within the project period will be made on the basis of the following criteria:

- a. Satisfactory progress has been made in meeting project objectives;
- b. Objectives for the new budget period are realistic, specific, and measurable;
- c. Proposed changes in described long-term objectives, methods of operation, need for grant/cooperative agreement support, and/or evaluation procedures will lead to achievement of project objectives; and
- d. The budget request is clearly justified and consistent with the intended use of cooperative agreement/grant funds.

#### Other Requirements

##### A. Objective Review

Applications will be reviewed by an ATSDR convened ad hoc review group established in accordance with the Public Health Service Grants Policy Statement.

##### B. Technical Review

All protocols, studies, and results of research that ATSDR carries out or funds in whole or in part will be reviewed to meet the requirements of CERCLA section 104(i)(13) as amended by SARA. ATSDR funded or conducted studies must:

- 1. Be reported or adopted only after appropriate review.
- 2. Be technically reviewed within a period of 60 days to the maximum extent practical.
- 3. Be reviewed by no fewer than three or more than seven reviewers who (a) are selected by the Administrator, ATSDR; (b) are disinterested scientific experts; (c) have a reputation for scientific objectivity; and (d) who lack

institutional ties with any person involved in the conduct of the study or research under review.

#### C. Paperwork Reduction Act

Clearance by the Office of Management and Budget (OMB) under Paperwork Reduction Act, is required whenever a *cooperative agreement* recipient uses a reporting form or plans to collect identical kinds of information or data from 10 or more persons. The recipient will not be authorized to expend any funds or take any action whatsoever in soliciting data from any of the public respondents until the CDC Grants Management Officer has notified the recipient that OMB clearance has been obtained.

#### D. Protection of Human Subjects

This program requires research on human subjects, therefore, all applicants must comply with 42 U.S.C. 289, as implemented by 45 CFR Part 46 regarding the protection of human subjects. Assurances must be provided that the project or activity will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing evidence of this assurance in accordance with the appropriate guidelines and forms provided in the application kit.

#### Executive Order 12372 Review

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs. E.O. 12372 sets up a system for state and local government review of proposed Federal assistance applications. Applicants (other than federally-recognized Indian tribal governments) should contact their state Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the state process. For proposed projects serving more than one state, the applicant is advised to contact the SPOC of each affected state. A current list of SPOC's including their names, addresses, and telephone numbers is included in the application kit. The due date for state process recommendations is 60 days after the application deadline date for new and competing continuation awards. The granting agency does not guarantee to "accommodate or explain" for state process recommendations it receives after that date.

The following state departments have elected not to participate in the "Intergovernmental Review of Federal Programs": Alaska, Idaho, Kansas,



Minnesota, Nebraska, Virginia, American Samoa, the Marshall Islands, the Federated States of Micronesia, and The Republic of Palau.

#### Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.161, Health Programs for Toxic Substances and Disease Registry.

#### Application Submission and Deadline Dates

The original and two copies of application form PHS Form 5161-1 (revised 3/89) shall be submitted to Henry S. Cassell, III, Grants Management Officer, CDC Procurement and Grants Office, 255 East Paces Ferry Road NE., Room 300, Atlanta, Georgia, 30305 by July 19, 1991. By formal agreement, the CDC Procurement and Grants Office will act for and on behalf of ATSDR on this matter.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

- Received on or before the deadline date, or
- Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly-dated U.S. Postal Service postmark or obtain a legibly-dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications: Applications that do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late competing applications not accepted for processing may either be returned to the applicant or held for the next scheduled review cycle.

#### Where To Obtain Additional Information

If you are interested in obtaining additional information on application procedures, copies of application forms, and other material, please contact the following CDC/ATSDR personnel.

Business Management Technical Assistance: Mr. Van Malone, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NE., Room 300, Mail Stop E-14, Atlanta, Georgia 30305 or by calling (404) 842-6630 or FTS 236-6630.

Programmatic Technical Assistance: Ms. Terry C. Maricle, Division of Health Studies, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road NE., Mail Stop E-31, Atlanta, Georgia

30333 or by calling (404) 639-0550 or FTS 236-0550.

#### Please Refer to Announcement Number 127 When Requesting Information and Submitting an Application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report, Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone (202) 783-3238).

Dated: June 13, 1991.

Walter R. Dowdle,

Acting Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 91-14701 Filed 6-19-91; 8:45 am]

BILLING CODE 4160-70-M

#### Centers for Disease Control

##### Sixth National Conference on Chronic Disease Prevention and Control

The Centers for Disease Control (CDC), the Association of State and Territorial Health Officials, and the Association of State and Territorial Chronic Disease Program Directors (ASTCDPD) will cosponsor the following meeting.

Name: Sixth National Conference on Chronic Disease Prevention and Control: Making Prevention a Reality.

Time and Date: Registration—12 noon–6 p.m., October 21, 1991, and throughout the conference. 8:30 a.m.–5:30 p.m., October 22–23, 1991. 8:30 a.m.–11:30 a.m., October 24, 1991.

The preregistration deadline is September 18, 1991. Preregistration fee is \$35; on-site registration fee is \$40. Make checks payable to ASTCDPD and mail to Chronic Disease Conference, Pace Enterprises, Inc., 17 Executive Park Drive, Suite 200, Atlanta, Georgia 30329.

Place: Omni Shoreham Hotel, 2500 Calvert Street NW, Washington, DC 20008, telephone 202/234-0700. Conference attendees receive special room rates of \$97 for single occupancy and \$116 for double occupancy. Reservations should be made directly with the hotel.

Status: Open to the public, limited only by available space.

Purpose: Attendees from around the nation and the world will have both structured and informal opportunities to exchange information, skills, knowledge, and experiences related to chronic disease prevention and control.

Matters to be Discussed: Potentially preventable chronic diseases such as cardiovascular disease, cancer, and

women's health issues which account for more than 70 percent of all deaths that occur in the United States and diminish the quality of life of millions of Americans will be discussed.

Contact Person for More Information: Mr. Jack Friel, Chief, Conference Management Operations, Center for Chronic Disease Prevention and Health Promotion, CDC, 1600 Clifton Road, NE, Mailstop K-43, Atlanta, Georgia 30333, telephone 404/488-5390 or FTS 236-5390.

Dated: June 13, 1991.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 91-14699 Filed 6-19-91; 8:45 am]

BILLING CODE 4160-18-M

#### Technical Advisory Committee for Diabetes Translation and Community Control Programs; Meeting

In Accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control (CDC) announces the following committee meeting.

Name: Technical Advisory Committee for Diabetes Translation and Community Control Programs.

Time and Date: 8 a.m.–4:30 p.m., Tuesday, July 23, 1991.

Place: Rhodes Building, 4th Floor Conference Room, 3005 Chamblee-Tucker Road, Atlanta, Georgia 30341. (Exit Chamblee-Tucker Road off I-85).

Status: Open to the public, limited only by the space available.

Purpose: This committee is charged with advising the Director, CDC, regarding priorities and feasible goals for translation activities and community control programs designed to reduce morbidity and mortality from diabetes and its complications. The Committee advises regarding policies, strategies, goals and objectives, and priorities; identifies research advances and technologies ready for translation into widespread community practice; recommends public health strategies to be implemented through community interventions; advises on operational research and outcome evaluation methodologies; identifies research issues for further clinical investigation; and advises regarding the coordination of programs with Federal, voluntary, and private resources involved in the provision of services to people with diabetes.

Matters to be Discussed: The Committee will work to identify long-range goals and objectives for the Technical Advisory Committee for Diabetes Translation and Community



Control Programs. In addition, Division of Diabetes Translation (DDT) staff will provide a comprehensive review of diabetes control programs located in 28 states and territories nationwide.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Frederick G. Murphy, Program Analyst, DDT, Center for Chronic Disease Prevention and Health Promotion, CDC, 1600 Clifton Road, NE, (K-10), Atlanta, Georgia 30333, telephone 404/488-5005 or FTS 236-5005.

Dated: June 13, 1991.

Elvin Hilyer,

*Associate Director for Policy Coordination, Centers for Disease Control.*

[FR Doc. 91-14700 Filed 6-9-91; 8:45 am]

BILLING CODE 4160-18-M

## Office of Community Services

[Program Announcement No. OCS-91-1]

### Request for Applications Under the Office of Community Services' Fiscal Year 1991 Discretionary Grants Program; Correction

**AGENCY:** Office of Community Services, ACF, DHHS.

**ACTION:** Request for applications under the Office of Community Services' Discretionary Grants Program; correction.

**SUMMARY:** This notice is being issued to correct certain information in the Program Announcement which was published June 4, 1991 (56 FR 25492-25523). All other information, as published, remains the same.

**FOR FURTHER INFORMATION CONTACT:** Joseph D. Reid, Chief, Division of Discretionary Grants, 202-401-9345.

In FR Doc. 91-13041, in the issue of June 4, 1991, make the following corrections:

On page 25494, in the second column, second paragraph, last sentence, the amount of the grants should read \$50,000.

On page 25497, third column, first complete paragraph, the date for the comment period should read September 6, 1991.

On page 25523, second column, Attachment J, should read as follows: Attachment J—Checklist for Use in Submitting OCS Grant Applications (Optional)

The application should contain:

1. A signed "Application for Federal Assistance" (SF-424). The letter code for the priority area should be in the lower right-hand corner of the paper;

2. "Budget Information—Non-Construction Program (SF-424A);

3. A signed "Assurances—Non-Construction Program" (SF-424B);

4. A Project Narrative consisting of the following elements preceded by a consecutively numbered Table of Contents that will describe the project in the following order:

(a) Eligibility Confirmation

(b) Analysis of Need

(c) Organizational Experience and Staff Responsibilities

(d) Work Program

(e) Appendices, including By-Laws; Articles of Incorporation; proof of non-profit status where applicable; resumes; Single Point of Contact comments; and, for Priority Area 1.4 only, a written agreement signed by the applicant and an organization funded by the Department of Labor in FY 90 under the YOU Program.

The total number of pages for the entire application package should not exceed 50 pages.

On page 25523, following Attachment J, the following should be inserted:

Attachment K—List of Organizations Funded by the Department of Labor under the YOU Program and Contact Persons

Ms. Gloria Moore, Job Training Division, City of Los Angeles Community Development Department, 215 Sixth Street/10th Floor, Los Angeles, California 90014, 213-237-1747.

Ms. Frankie Coleman, Columbus Private Industry Council, 400 East Town Street/Suite 220, Columbus, Ohio 43215, 614-228-3907.

Ms. Margie Rosas, San Diego Private Industry Council, 1551 4th Avenue/Suite 600, San Diego, California 92101, 619-238-1445 or 619-525-1739.

Ms. Jean Denson, Mississippi Economic Development Department, 301 W. Pearl Street, Jackson, Mississippi 39203, 601-949-2123.

Ms. Ana Palmer, Office of Employment Development, 417 East Fayette Street/Room 468, Baltimore, Maryland 21212, 301-398-5538.

Ms. Deborah Johnson, Philadelphia Private Industry Council, 1617 JFK Boulevard, Suite 1300, Philadelphia, Pennsylvania 19103, 215-567-5627.

Mr. Alvin Darden, Atlanta Private Industry Council, 100 Edgewood Avenue/Suite 1600, Atlanta, Georgia 30303, 404-658-6681.

Dated: June 14, 1991.

Karen Saunders,

*Deputy Director, Office of Community Services.*

[FR Doc. 91-14657 Filed 6-19-91; 8:45 am]

BILLING CODE 4160-04-M

## Health Care Financing Administration

### Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organizations, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA) is amended to reflect minor changes to the Bureau of Data Management and Strategy (BDMS). The Division of Medicaid Statistics (DMS) is established in the Office of Program Systems, (OPS) Bureau of Data Management and Strategy, Office of the Associate Administrator for Management and the Medicaid Data Branch, National Claims History Division (NCHD), OPS is abolished. The DMS will gain the responsibility formally vested with the NCHD for input data relating to the Medicaid Statistical Information System. The NCHD will be concerned with the integrity of the National Claims History database for the Medicare program and related hardware requirements.

### The Specific Amendment to Part F. is Described Below

- Section FH.20.D.3.b., National Claims History Division (FHE32) is amended and Section FH.20.D.3.c., Division of Medicaid Statistics (FHE33) is added to reflect a focal coordinating point for Medicaid statistics, formerly located within the National Claims History Division. The new sections read as follows:

#### b. National Claims History Division (FHE32)

- Manages and directs the receipt, control, editing, quality assurance, and basic monitoring of the common working file claims and program liability data.

- Performs the planning, organization, technical consultation, and coordination activities required to design, develop, document control, and ensure the integrity of HCFA's National Claims History database (NCHDB) for the Medicare program and related hardware requirements.

- Defines systems accesses, interfaces, and operational requirements to ensure the efficient development and use of the NCHDB for program purposes.

- Negotiates user requirements and develops design alternatives, systems specifications, test, conversion and implementation plans, operation plans (e.g., HDC support requirements), and documentation for the NCHDB and related applications.



- Defines and coordinates an NCHDB and beneficiary record quality assurance program including the development of process controls, edits, and statistical measures to ensure database validity and integrity for use in program development and evaluating ongoing program operations. Defines and coordinates a beneficiary record quality assurance program to ensure the consistency of data maintained at the Common Working File sites with the enrollment databases.

- Manages NCH database administration activities directed toward ensuring the integrity of the databases.

- Participate in the development and establishment of data standards used for HCFA programs, including uniform billing, uniform coding systems, and common reporting systems.

*c. Division of Medicaid Statistics (FHE33)*

- Manages and directs the receipt, control, edit, quality assurance, and basic monitoring of input data relating to the Medicaid Statistical Information System (MSIS) and the HCFA-2082.

- Performs the planning, organization, technical consultation, and coordination activities required to design, develop, document control, and ensure the integrity of HCFA's National Claims History database (NCHDB) for the Medicaid program and related hardware requirements.

- Provides standard and ad hoc data files and reports on Medicaid data.

- Designs, implements, and maintains the Medicaid drug information databases.

- Develops, implements, and maintains ADP application telecommunications software to provide access and front end quality control for the various systems maintained in the branch.

- Designs, implements, maintains, and ensures the continuing operations of software applications which array Medicaid data in accordance with the ongoing program management needs of HCFA.

- Develops short- and long-range Medicaid IRM plans to ensure that the proper hardware and software is maintained to meet the Agency's PM operations support needs.

- Negotiates user requirements and develops design alternatives, systems specifications, test, conversion and implementation plans, operation plans (e.g., HDC support requirements), and documentation for Medicaid and related applications.

- Defines and coordinates a Medicaid data quality assurance program including the development of process controls, edits, and statistical measures to ensure that the databases are reliable for use in program development and evaluating ongoing program operations.

- Identifies and implements processes and procedures that will take maximum advantage of HCFA's multi-level data processing architecture; e.g., taking advantage of the microcomputers to put data and application development at the desk-top where appropriate, as well as to maximize the efficient use of the mainframe to process large-scale applications.

Dated: June 11, 1991.

**Robert A. Streimer,**

*Associate Administrator for Management.*

[FR Doc. 91-14752 Filed 6-19-91; 8:45 am]

BILLING CODE 4120-03-M

### National Institutes of Health

#### National Cancer Institute; Meeting of the Cancer Biology-Immunology Contracts Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Cancer Biology-Immunology Contracts Review Committee, National Cancer Institute, National Institutes of Health, June 27, 1991, Executive Plaza North, Conference Room H, 6130 Executive Boulevard, Rockville, Maryland 20892.

This meeting will be open to the public from 9 a.m. to 10 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public from 10 a.m. to adjournment for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Officer, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide summaries of the meeting and rosters of committee members upon request.

Dr. Lalita D. Palekar, Scientific Review Administrator, Cancer Biology-Immunology Contracts Review

Committee, 5333 Westbard Avenue, room 805, Bethesda, Maryland 20892 (301/496-7575) will furnish substantive program information.

This notice is being published less than 15 days prior to the meeting due to the difficulty of coordinating the attendance of members because of conflicting schedules.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: June 17, 1991.

**Betty J. Beveridge,**

*Committee Management Officer, NIH.*

[FR Doc. 91-14818 Filed 6-19-91; 8:45 am]

BILLING CODE 4140-01-M

#### National Cancer Institute; Meeting: Biometry and Epidemiology Contract Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, National Institutes of Health, June 24, 1991, Executive Plaza North, Conference Room G, 6130 Executive Boulevard, Rockville, Maryland 20892.

This meeting will be open to the public from 9 a.m. to 9:30 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public from 9:30 a.m. to adjournment for the review, discussion, and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Office, National Cancer Institute, Building 31, room 10A06, National Institutes of Health, Bethesda, Maryland 20892, Tel. 301-496-5708, will provide a summary of meeting and a roster of committee members upon request.

Dr. Harvey P. Stein, Scientific Review Administrator, Biometry and Epidemiology Contract Review Committee, 5333 Westbard Avenue,



room 807, Bethesda, Maryland 20892, Tel. 301-496-7030, will furnish substantive program information.

This notice is being published less than 15 days prior to the meeting due to the difficulty of coordinating the attendance of members because of conflicting schedules.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

[FR Doc. 91-14819 Filed 6-19-91; 8:45 am]

BILLING CODE 4140-01-M

## Public Health Service

### Meeting of the Advisory Committee on Scientific Integrity, Public Health Service

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Advisory Committee on Scientific Integrity, Public Health Service, on July 15-16, 1991 at the National Institutes of Health, Bethesda, MD. The meeting will take place July 15 from 8:30 a.m. to 4:30 p.m., and on July 16 from 8:30 a.m. to 12:30 p.m., Building 31, C Wing, Conference room 7. The meeting will be open to the public.

The Committee reviews and evaluates, on an ongoing basis, the efficacy of policies and procedures of the Department of Health and Human Services in detecting, deterring, investigating, and resolving allegations of scientific misconduct and makes recommendations to the Secretary and the Assistant Secretary for Health on improving these policies and procedures.

The purpose of the meeting will be to introduce the Committee to the structure and function of the PHS Scientific Integrity programs and to examine ongoing activities. The Committee members will also begin to formulate future plans for the Committee.

Henrietta D. Hyatt-Knorr, Executive Secretary, Advisory Committee on Scientific Integrity Review, Rockwall II, suite 1113, 5515 Security Lane, Rockville MD 20852, (301) 443-5300, will furnish the meeting agenda, a roster of the Committee members, and substantive program information upon request. Members of the public wishing to make presentations should contact the Executive Secretary and forward a copy of their presentation at least two weeks ahead of time. Depending on the number of presentations and other considerations, the Executive Secretary

will allocate a time frame for each speaker.

Lyle W. Bivens,

Director, Office of Scientific Integrity Review.

[FR Doc. 91-14654 Filed 6-19-91; 8:45 am]

BILLING CODE 4160-17-M

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

#### Central Arizona Project (CAP) Water Allocations and Water Service Contracting

**AGENCY:** Office of the Secretary, Interior.

**ACTION:** Notice of proposal water reallocation decision for uncontracted CAP non-Indian agricultural water allocations and request for comments.

**SUMMARY:** The purpose of this action is to provide public notice of the Department's proposed reallocation of currently uncontracted CAP non-Indian agricultural water allocations. Except as noted below, the Department proposed to reallocate 29.3 percent of CAP uncontracted non-Indian agricultural water allocations as recommended by the Arizona Department of Water Resources (ADWR) and to offer amendatory or new subcontracts for such water to non-Indian agricultural users. The contracting process which follows the final allocation decision will include consideration of a full range of contracting terms and conditions and will provide an opportunity for public review and comment. The Department will reserve for discretionary use any non-Indian agricultural allocations that are uncontracted after completion of the contracting process.

**DATES:** All written comments relevant to the proposed reallocation decision that are received on or before July 22, 1991, will be considered.

**ADDRESSES:** Interested parties should contact Mr. Donald Walker, Contracts and Repayment Specialist, Bureau of Reclamation, Department of the Interior, 1849 C Street, NW., Washington, DC 20240 (telephone: 202-208-5671) or Mr. Steve Hvinden, Regional Economist, Bureau of Reclamation, PO Box 427, Boulder City, Nevada 89005 (telephone 702-293-8651).

**SUPPLEMENTARY INFORMATION:** Previous Departmental Federal Register notices relating to CAP water allocations are as follows: 37 FR 28082, December 20, 1972; 40 FR 17297, April 18, 1975; 41 FR 45883, October 18, 1976; 45 FR 52938, August 8, 1980; 45 FR 81265, December 10, 1980; 46 FR 29544, June 2, 1981; 46 FR 60658, December 11, 1981; and 48 FR 12446, March 24, 1983. CAP water allocation

decisions are made pursuant to the Reclamation Act of 1902, as amended and supplemented (32 Stat. 388, 43 U.S.C. 391), the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1057, 43 U.S.C. 617), the Colorado River Basin Project Act of September 30, 1968 (82 Stat. 885, 43 U.S.C. 1501), the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR part 1505), the Implementing Procedures of the Department of the Interior (516 DM 5.4), and in recognition of the Secretary's trust responsibility to the Indian tribes of central Arizona.

### Forcing Event

Section 11(h) of the Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988 (Pub. L. 100-512) (102 Stat. 2559) provides that the Secretary must reallocate uncontracted non-Indian agricultural CAP water within 180 days of receiving ADWR's recommendations. The official date of receipt of ADWR's allocation recommendations was January 29, 1991, thereby establishing July 28, 1991, as the deadline for this reallocation decision.

### Background

The CAP is a multi-purpose project which provides water for municipal and industrial (M&I), Indian, and non-Indian agricultural uses. The last allocations of CAP water, the conditions upon which those allocations were made, and the procedures for water service contracting were published in the *Federal Register* (48 FR 12446, March 24, 1983). That notice contained the Secretary's final decision, summarized CAP issues, and provided basic background information applicable to this proposed reallocation.

In the 1983 notice, the Secretary allocated 638,823 acre-feet of water per year to non-Indian M&I users and 309,828 acre-feet of water per year to Indian users. The non-Indian agricultural water users were to receive any CAP supply that remained after the non-Indian M&I and Indian entities used their entitlements. The supply allocated to each of the 23 non-Indian agricultural users was stated in terms of a percentage of the total non-Indian agricultural supply. The non-Indian agricultural allocation was based on a percentage which represented each allottee's portion of the total irrigated acreage, with an adjustment to reflect any other surface water supply available to the allottee.

Since the 1983 notice was published, the Central Arizona Water Conservation District (CAWCD) and the Bureau of Reclamation (Reclamation) have been



entering into long-term CAP water service subcontracts with those entities receiving an allocation of CAP agricultural water. CAWCD is the entity which has contracted with Reclamation for repayment of the costs of the project. The combined entitlement for entities which have entered into CAP water service subcontracts subsequent to the 1983 notice represents 70.7 percent of the non-Indian agricultural supply. Eleven entities have declined their CAP water allocation for a total of 23.82 percent of the non-Indian agricultural supply. Two entities which were allocated the remaining 5.48 percent of the agricultural supply have not yet contracted for such water.

Water deliveries pursuant to the subcontracts will begin following Reclamation's issuance of a notice of completion for CAP. It is anticipated that such a notice will be issued sometime in late 1992. In the meantime, CAP water deliveries have been made and are being made through completed portions of the CAP aqueduct pursuant to interim water service contracts.

The 1983 notice provided for a reallocation of the CAP water after the initial round of water service contracting had been completed. An interest in proceeding with the reallocation has existed for several years. However, the Department and ADWR have refrained from proceeding with the reallocation until there was more certainty about the amount of allocations involved and until ongoing negotiations for Indian water rights settlements had been completed. The Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988, in effect, compelled the Secretary to request ADWR in November of 1988 to make a recommended reallocation of uncontracted non-Indian CAP agricultural water to the Secretary. The amount of time that ADWR had to respond to the request was not specified. However, ADWR was required to complete its recommendation by January 7, 1991, by the decision of the Arizona Superior Court in the case, *Central Arizona Irrigation and Drainage District et al. v. Plummer*, No. CIV-38812.

In response to the request from Reclamation and in compliance with the Court order, ADWR recommended to the Secretary by its letter dated January 7, 1991, how the remaining 29.3 percent of the non-Indian agricultural supply should be reallocated. In arriving at its recommendations, ADWR conducted an extensive public input and review process which elicited numerous

opinions, options, and alternatives. By letter dated January 15, 1991, ADWR supplemented its recommendations to the Secretary with a report explaining the methodologies used to calculate the water recommendations, discussing the factors considered in making the recommendations, and addressing issues and concerns raised by public comments. Some of these issues and concerns are discussed below.

ADWR's report submitted with the January 15, 1991, letter was fully considered and used in developing options for consideration. Anyone interested in receiving a copy of ADWR's letters dated January 7 and 15, 1991, and accompanying report, should refer to the "Addresses" section of this notice for a contact person.

#### Policy and Legal Issues

*Issue 1.* Reallocation of uncontracted non-Indian agricultural water allocations for use in central and southern Arizona Indian water rights settlements.

*Discussion:* Negotiated water rights settlements with Indian tribes have been and are being pursued by the United States for tribes in central and southern Arizona. Generally, the United States participates in settlements by making contributions of water and/or money. Potential water supplies for existing and future settlements are limited. Some parties view the uncontracted CAP agricultural water supply as a potential source of water for Indian water rights settlements.

The Department believes that there are barriers which prohibit the first round reallocation of non-Indian agricultural water for Indian water rights settlements. As noted in the "Forcing Event" section of this notice, subsection 11(h) of the Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988 provides that "Within thirty days after the date of enactment of this Act, the Secretary shall request the Arizona Department of Water Resources to recommend a reallocation of non-Indian agricultural CAP water that has been offered to but not contracted for by potential non-Indian agricultural subcontractors. Within one hundred and eighty days of receipt of such recommendation, the Secretary shall reallocate such water for non-Indian use, and the Secretary and CAWCD shall thereafter offer amendatory or new subcontracts to non-Indian agricultural users." A similar provision is included in existing CAP water service subcontracts with agricultural subcontractors. The subcontracts provide that "After consultation with the Arizona

Department of Water Resources, the Secretary shall reallocate for non-Indian agricultural use all entitlements to Agricultural Water that were not contracted for by the entities to which such entitlements were first made available."

*Issue 2.* Impact of reallocation decisions on CAP cost allocation.

*Discussion:* CAWCD is the repayment entity for CAP through its repayment contract with the United States. CAWCD will rely on revenues received from the sale of power, ad valorem taxes, and revenues from its water service subcontractors to make its annual payments to the United States. The question arises as to how any reallocation decision will impact the CAP cost allocation.

If the reallocation decision only alters the distribution of uncontracted water allocations among the non-Indian agricultural entities, there would be no change in the amount of costs allocated to CAWCD. If some of the non-Indian agricultural allocations were allocated for Indian water rights settlement purposes, the CAP cost allocation would be affected.

*Issue 3.* Impact of reallocation decision on the repayment capabilities of CAP non-Indian irrigation districts.

*Discussion:* Existing CAP water entitlements for each irrigation district which contracts for CAP water will change. In almost all cases the quantities of CAP water available to each irrigation district will increase. This will affect the districts' operation and maintenance cost structure since the districts will probably use more CAP water and less ground water than would have been the case in the absence of the reallocation. If CAP water costs more than ground water, which is likely to be the case for most districts in the early years of CAP operations, the reallocation might have an adverse impact on the districts' ability to pay CAP water service charges and to repay the debt owed to the Federal Government for CAP distribution systems.

*Issue 4.* Local concerns addressed by ADWR.

*Discussion:* During its public involvement process, ADWR heard numerous local concerns, which are discussed in its January 15, 1991, reallocation report entitled "Recommendation to the Secretary of the Interior on Reallocation of Central Arizona Project Non-Indian Agricultural Water". These concerns, among others, included whether (1) new entities should be considered for an allocation, (2) entities outside of the CAWCD three-



county service area should be considered for an allocation, and (3) CAP water should be reallocated to the State active management areas (AMA) in the same proportion as in the 1983 allocation.

The Department does not believe that the reallocation must be limited to the existing subcontractors. With respect to whether CAP water can only be delivered for use within CAWCD's three-county service area (Maricopa, Pinal, and Pima Counties), CAWCD's repayment contract provides for delivery of CAP water outside of CAWCD's service area if the Contracting Officer approves such delivery. Therefore, the Department believes that CAP agricultural water can be allocated, as ADWR recommends, for use outside the three-county area.

Entities in the Tucson area have indicated that agricultural water allocations that were rejected in the original contracting process should be reallocated to the same AMA. These entities have indicated that the ADWR recommendations result in a gain to the other AMA's at the expense of the Tucson AMA.

The Department does not believe that the water allocation relationships that existed in the 1983 allocation must necessarily be preserved in the reallocation. Non-Indian agricultural supplies for CAP have been allocated and continue to be allocated on the basis of eligible acreage. Since some of the irrigation districts within the Tucson AMA rejected their CAP water allocations, there are fewer eligible lands within the Tucson AMA that can participate in the reallocation. The Department cannot require entities in the Tucson AMA to contract for CAP agricultural water. Allocation of CAP water on the basis of eligible acreage cannot be accomplished by adhering strictly to the water allocation relationships among AMA's that existed in the 1983 allocation.

#### Options

1. Reallocate in accordance with ADWR recommendations.

2. Reallocate to the 10 existing subcontractors, with the stipulation that any allocations not contracted for within 180 days of the reallocation decision shall revert to the Secretary for discretionary use.

3. Reallocate as recommended by ADWR, with the stipulation that any allocations not contracted within the timeframes recommended by ADWR shall revert to the Secretary for discretionary use.

*Option 1.* Reallocate in accordance with ADWR recommendations. The

complete text of the ADWR recommendations is quoted below. Bracketed words are inserted for clarification purposes.

1. Entitlements contained in article 4.13(a) of all existing non-Indian agricultural subcontracts be adjusted pursuant to article 4.13(b) as follows:

Irrigation district (subcontractor)	Existing entitlement (percent)	Proposed new entitlement (percent)
Central Arizona IDD.....	18.01	22.74
Chandler Heights Citrus ID.....		
Harquahala Valley ID.....	0.28	0.30
HoHoKam ID.....	7.67	8.73
Maricopa-Stanfield IDD.....	6.36	6.97
New Magma IDD.....	20.48	22.75
Queen Creek ID.....	4.34	7.23
Roosevelt Water CD.....	4.83	4.83
San Tan ID.....	5.98	6.33
Tonopah ID.....	0.77	0.77
	1.98	1.98

2. Entitlements for entities which received original allocations [48 FR 12446, March 24, 1983] but the contracting deadlines have not been imposed [entities which have not entered into water service subcontracts] be adjusted as follows:

Subcontractor	Original entitlement (percent)	Adjusted entitlement (percent)
Farmers Investment Co. [FICO].....	1.39	1.64
San Carlos IDD [SCIDD].....	4.09	6.84

3. New subcontracts be offered with the indicated entitlements to:

Subcontractor	Entitlement (percent)
Arizona State Land Department:	
Lease #01-00694 (Picacho Pecos).....	0.54
Lease #01-077685 (Aguilre).....	0.11
McMullen Valley Water CDD [MVWCDD].....	3.17
Roosevelt ID [RID].....	5.0

4. No subcontract be offered to an entity in Recommendation No. 3 above unless within one year from [the Secretary's] decision on the allocation the entity provides the following:

a. Demonstration to the satisfaction of both the Secretary and Department [ADWR] that it is economically feasible to distribute CAP water for agricultural production to the eligible lands in the entity's leasehold or service area and there is no impediment to any necessary exchange agreements.

b. A commitment to relinquish any allocation of "Hoover B" electric power [Incremental capacity and energy

resulting from the up-rating program of the Hoover Dam Power Plant pursuant to Pub. L. 98-381 (98 Stat. 1333)].

c. Demonstration to the satisfaction of the Secretary and the Department [ADWR] that there will be in place provisions to comply with section 304(c)(1) of Public Law 90-537 for any entity located outside of an existing Active Management Area or Irrigation Non-expansion Area.

5. A determination of eligible acres be made [by the Secretary] before a subcontract is offered to an entity in Recommendation No. 3 above and the allocation adjusted, if necessary, in a manner consistent with the methodology used by the Department [ADWR] in this recommended reallocation.

6. Once the record of decision is made [by the Secretary], the adjustments to the existing subcontractor's entitlements be completed in 6 months. New subcontracts should be executed within 6 months [with the allottees listed in item No. 3] after the requirements of Recommendation No. 4 have been completed.

7. If any of the allottees decides [sic] on a lesser entitlement than the amount recommended, or that it does not want to subcontract, then all remaining entities' entitlements should be increased [by the Secretary] in a manner consistent with the methodology used by the Department [ADWR] in this recommended reallocation.

*Discussion:* ADWR developed three criteria for determining whether an entity should be included in the reallocation. These criteria include the following: (1) The entity must have lands that are eligible to receive CAP agricultural water; (2) the entity must be located in an area experiencing a declining ground water table; and (3) the entity must currently be providing water for agricultural use.

In addition to the 10 entities that have signed CAP water service subcontracts, ADWR has recommended allocations to: (1) Three new entities (MVWCDD and the two State leases); (2) two entities included in the 1983 allocation (SCIDD and FICO) but which have not yet signed a CAP subcontract; and (3) one entity (RID) which had previously rejected a CAP subcontract but subsequently decided to seek an allocation during the reallocation recommendation process.

With one exception, all of the allottees would take direct delivery of CAP water. RID would benefit from the reallocation through an effluent exchange with the city of Phoenix. RID's CAP agricultural water would be delivered to Phoenix and Phoenix would



deliver treated effluent to RID for agricultural purposes. Under the State's recommendation, RID would have to document to the Secretary and ADWR that there is no impediment to implementing such an exchange as a prerequisite to receiving an offer of a CAP water service subcontract. The facilities to deliver effluent from Phoenix to RID will be constructed as part of an exchange agreement under the Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988.

The State's recommendation would expand the eligible land base (418,890 acres) to receive CAP agricultural water, thereby increasing the possibility that Arizona will be able to use its full apportionment of Colorado River water. One of the primary purposes of CAP is to provide a means for the State to fully utilize such apportionment. The land base currently under subcontract may not be great enough to use all available CAP agricultural water in the early project years. Presently, the State does not have the capability to recharge large amounts of CAP water during the early years of the project.

Expanding the eligible land base increases Federal oversight required for administering the Reclamation Reform Act of 1982. However, these additional Federal costs are not expected to be substantial.

ADWR has recommended that MVWCDD receive a water allocation. The city of Phoenix owns most of the lands in the District. Phoenix has purchased the lands in MVWCDD as a water farm and intends to eventually transport ground water from such lands to the Phoenix service area. Phoenix plans to farm the land until such time as the ground water is needed within its service area. The use of CAP agricultural water on the MVWCDD lands will allow Phoenix to retain more ground water in the aquifer for future use in its service area.

An allocation to MVWCDD would require a high pump lift (approximately 600 feet) to convey CAP water to the District's lands. Nearly all of the CAP agricultural water for other CAP users will be delivered by gravity systems. Because of the high lift required for MVWCDD to utilize CAP water, the State has recommended that MVWCDD document that it has the financial capability to take and use CAP water for agricultural purposes before a subcontract can be offered to MVWCDD. The State has also recommended that the financial feasibility requirement be applied to RID and the two State leases.

ADWR has recommended that two other conditions be imposed on MVWCDD in order for MVWCDD to receive an offer of a CAP subcontract. The CAP authorizing legislation provides that subcontracts must require that adequate measures are in effect to control expansion of irrigation from aquifers in the subcontractor's service area. There is nothing under State law which would prevent MVWCDD from expanding its irrigation service area after it receives a CAP subcontract. The State has recommended that MVWCDD must satisfy the Department and ADWR that MVWCDD can meet the Federal requirement. ADWR has also recommended that MVWCDD must relinquish its allocation of Hoover B electric power as a condition of receiving a CAP water service subcontract. This condition would place MVWCDD on the same footing as the existing CAP water subcontractors, which were required to relinquish their entitlement to Hoover B power as a condition of receiving CAP water. Hoover B power is capacity and energy made available due to the up-rating of the power plant at Hoover Dam that was authorized by the Hoover Dam Power Plant Act of 1984 (Pub. L. 98-381, 98 Stat. 1333).

Under the CAP agricultural water service subcontracts, the agricultural water service subcontractors have the right to convert the agricultural entitlement to an M&I entitlement at the rate of 1 acre-foot per acre when the agricultural entitlement is no longer needed for agricultural purposes or when the eligible lands convert to M&I use. Any expansion of the CAP eligible acreage increases the potential for M&I conversions in the future. Since M&I water made available as a result of conversions has the same priority as the original 640,000 acre-feet of water that was allocated for M&I use, the allocation of agricultural water to new areas has the potential to further dilute the priority of the entire CAP M&I water supply during times of CAP water shortages.

Selection of this option would indicate that the Secretary had accepted the State's criteria and rationale for the reallocation. The Department has a history of giving deference to the State's recommendations regarding the use of Colorado River water by non-Indian entities.

**Option 2.** Reallocate uncontracted agricultural water allocations to the 10 existing subcontractors with the stipulation that any allocations not contracted for within 180 days of the reallocation decision shall revert to the

Secretary for discretionary use. Water service contracts would be offered based on the percentages shown in the table below.

Irrigation district (Subcontractor)	Existing entitlement (Percent)	Proposed new entitlement (Percent)
Central Arizona IDD.....	18.01	27.67
Chandler Heights		
Citrus ID .....	0.28	0.36
Harquahala Valley ID....	7.67	10.62
HoHoKam ID .....	6.36	8.48
Maricopa Stanfield		
IDD .....	20.48	27.67
New Magma IDD .....	4.34	8.78
Queen Creek ID .....	4.83	5.83
Roosevelt Water CD ....	5.98	7.70
San Tan ID .....	0.77	0.91
Tonopah ID .....	1.98	1.98

**Discussion:** Under this option, all CAP agricultural water allocations would be reallocated to existing subcontractors located in existing State-identified critical ground water basins.

The reservation feature of this option may provide a source of water for meeting the Secretary's obligation as trustee for Indian tribes. Litigation concerning Indian reserved water rights in central and southern Arizona has been proceeding for more than 15 years. Settlements have been reached in several cases, and negotiations are ongoing for the San Carlos Apache Tribe and the Gila River Indian Community. The Secretary has not yet identified firm supplies of water to meet his obligations under existing water rights settlement acts, and must identify and secure additional blocks of water for pending settlements. The Secretary is committed to finding sources of water for existing Indian water rights settlements where sources of water have not been identified and in finding sources of water for use in pending Indian water rights settlements. This option would also be consistent with the Secretary's legal obligation to protect the Federal reserved rights of Indian tribes.

**Option 3.** Reallocate uncontracted agricultural water allocations as recommended by ADWR, with the stipulation that any allocations not contracted for within the timeframes recommended by ADWR shall revert to the Secretary for discretionary use.

**Discussion:** This option is a combination of options 1 and 2 above. By selecting this option, the Secretary would be adopting the State's criteria and rationale for the reallocation but would be retaining some flexibility for use of the non-Indian agricultural allocations in Indian water rights settlements and for other purposes in the event that some of the uncontracted allocations are not placed under



contract. Please refer to the discussion under options 1 and 2. This option would not fully accept the State's recommendation because it does not reallocate any agricultural allocations remaining after the contracting process to the remaining subcontractors.

#### Proposed Reallocation Decision

Option No. 3. The State has adopted reasonable criteria for developing its allocation recommendations, and the recommendations were developed through a process which solicited public input. Given the existing contracts and the legal requirements contained in section 11(h) of the Salt River Pima-Maricopa Indian Community Water Rights Settlement Act that the uncontracted water allocations must be allocated for non-Indian agricultural use, the Department believes that it is appropriate to defer to the State with respect to the allocation of the non-Indian agricultural water supply. The Department has a history of giving deference to the State's recommendations regarding the allocation of water among non-Indian entities and a policy of deferring to the State on water issues unless there is an overriding Federal interest. The Department believes, however, that it is appropriate that the Secretary retain some flexibility to use any allocations that become available following completion of the contracting program for use in Indian water rights settlements or for other purposes. With that understanding, the Department proposes to reallocate uncontracted CAP non-Indian agricultural water allocations and to proceed with water service contracting as recommended by ADWR.

#### Compliance with the National Environmental Policy Act of 1969 (NEPA)

Previous notices concerning compliance with NEPA in connection with CAP water allocations were published on June 2, 1981 [46 FR 29544]; December 4, 1981 [46 FR 59316]; December 11, 1981 [46 FR 60658]; and March 24, 1982 [47 FR 12689]. The Department has prepared an environmental assessment (EA) on the proposed reallocation decision and on alternative reallocation options. The draft EA is currently being circulated for public review and comment. Anyone interested in receiving a copy of the draft EA should contact Mr. Bruce Ellis, Chief, Environmental Division, Arizona Projects Office, Bureau of Reclamation, P.O. Box 9980, Phoenix, Arizona 85068 (telephone 602-870-6767).

Once the EA has been completed, the Department will determine whether to prepare a "Finding of No Significant Impact" or an environmental impact statement. Implementation of the reallocation decision will be subject to further compliance with the requirements of NEPA.

#### Effect on Previous Decisions

When finalized, the proposed decision will supplement, and to the extent it is inconsistent therewith, supersede the non-Indian agricultural water allocation published by Secretary Watt on March 24, 1983.

Dated: June 17, 1991.

Manuel Lujan Jr.,

Secretary of the Interior.

[FR Doc. 91-14750 Filed 6-19-91; 8:45 am]

BILLING CODE 4310-09-M

#### Bureau of Land Management

[AZ-930-01-4214-12; A-702, A-2695]

#### Termination of Multiple-Use Classification and Natural Area Designation; AZ

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** Present action terminates the multiple-use classification and natural area designation on approximately 44 acres of public land and will allow for a land exchange for the enhancement of other Bureau programs. The subject area is in an area of potential development and no longer suitable for multiple-use management or natural area designation. Disposal of the property is in conformance with recommendations in the Arizona Strip Resource Management Plan.

**EFFECTIVE DATE:** July 22, 1991.

#### FOR FURTHER INFORMATION CONTACT:

John Mezcs, Bureau of Land Management, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, (602) 640-5509.

**SUPPLEMENTARY INFORMATION:** On June 20, 1967, and November 15, 1968, the land described below was included as a part of multiple-use classification actions segregating it from most forms of entry under the general land laws and the mining laws pursuant to the terms and conditions of the Act of September 19, 1964. On January 10, 1969, the area was designated a Class III natural environment area under the Bureau of Outdoor Recreation system of classification.

With the passage of the "Arizona Wilderness Act of 1984" on August 28,

1984, the Paria Canyon-Vermilion Cliffs area was designated as wilderness. With boundary adjustments allowed by the Wilderness Act, the subject area was eliminated from the wilderness designation. The lands retained its multiple-use classification and natural area designation. Lands affected by this action are located and identified as follows:

#### Gila and Salt River Meridian

T. 39 N., R. 7 E.,

Section 7, Lots 6 and 7, S $\frac{1}{2}$ S $\frac{1}{2}$  (that portion between the wilderness boundary, Vermilion Cliffs Lodge and the private land belonging to the Badger Creek Homeowners lying west of Highway 89A).

The area contains approximately 44 acres in Coconino County.

1. The classification decisions dated June 20, 1967, and November 15, 1968, and the natural area designation dated January 10, 1969, as published in the Federal Register are hereby terminated in their entirety as they affect the above-described lands.

2. At 10 a.m. on June 20, 1991, the above-described land will be opened to operation of the public land laws, subject to valid existing rights and the provisions of applicable law.

3. At 10 a.m. on June 20, 1991, the above-described land will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provision of existing withdrawals, any segregation of record and the requirements of applicable law. Appropriation of lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Beaumont C. McClure,

Deputy State Director, Lands and Renewable Resources.

[FR Doc. 91-14718 Filed 6-19-91; 8:45 am]

BILLING CODE 4310-32-M

[UT-050-01-4333-10]

#### Off-road Vehicle (ORV) Designation

**AGENCY:** Bureau of Land Management, Interior.



**ACTION:** Notice of the Henry Mountain Resource Area ORV Designations.

**SUMMARY:** Notice is hereby given relating to the use of ORV's on public lands according with the authority and requirements of Executive Orders 11644 and 11989 and regulations contained in 43 CFR part 8340. The following described lands under administration of the Richfield District of the Bureau of Land Management are designated as closed, limited, or open to ORV use.

The 1,413,490 acres of public land affected by the designations are within the Henry Mountain Resource Area in Wayne and Garfield Counties, Utah. The designations are a result of resource management decisions made in the Henry Mountain Resource Area Management Framework Plan, revised in 1982. Public comments concerning the implementation plan were received during August of 1990.

These designations for the Public land located within the areas listed below are effective immediately and will remain in effect until modified or rescinded by the Authorized Officer.

**SUPPLEMENTARY INFORMATION:** ORV designations are effective for the Henry Mountain Resource Area.

A. Open Designation—942,926 acres  
B. Limited Vehicle Use Area—312,639 acres

C. Closed Designation—157,925 acres  
For further information contact Sheldon Wimmer, Area Manager, Henry Mountain Resource Area, PO Box 99, Hanksville, UT 94734.

Dated: June 11, 1991.

Sam Rowley,

Assistant District Manager Resources.

[FR Doc. 91-14724 Filed 6-19-91; 8:45 am]

BILLING CODE 4310-DQ-M

[OR-943-4214-10; GP1-211; OR-8761(WASH)]

### Opening of National Forest Lands; Washington

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** This action will terminate the temporary segregative effect as to 1,120 acres of National Forest System lands included in an application for withdrawal involving the extension of the White Pass Recreation Area.

**EFFECTIVE DATE:** October 20, 1991.

**FOR FURTHER INFORMATION CONTACT:** Linda Sullivan, BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-280-7171.

**SUPPLEMENTARY INFORMATION:** Pursuant to the regulations contained in 43 CFR 2310.2-1(e), at 8:30 a.m., on October 20, 1991, the following described lands will be relieved of the temporary segregative effect of withdrawal application OR-8761(WASH). The withdrawal application will continue to be processed unless it is cancelled or denied:

#### Willamette Meridian

*Gifford Pinchot and Snoqualmie National Forests*

T. 13 N., R. 11 E., unsurveyed,

Sec. 1, S½NW¼;

Sec. 2, S½NE¼;

Sec. 10;

Sec. 11, S½S½;

Sec. 12, S½S½.

The areas described aggregate approximately 1,120 acres in Lewis and Yakima Counties.

Dated: June 10, 1991.

Robert E. Mollohan,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 91-14725 Filed 6-19-91; 8:45 am]

BILLING CODE 4310-33-M

[CA-050-09-4212-11; CA 28002]

### Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Trinity Co., CA

**ACTION:** Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Trinity County, California.

**SUMMARY:** The following public land in Trinity County, California has been examined and found suitable for classification for lease to the Douglas City Community Services District, under provisions of the Recreation and Public Purposes Act, as amended (43 USC 869, et seq). The Douglas City Community Services District proposes to use the land for a fire station.

#### Mount Diablo Meridian

T. 33 N., R. 9 W.,

Section 34; Lot 7; portion of  
Containing 1.00 acre, more or less.

The lands are not needed for Federal purposes. Lease is consistent with current Bureau of Land Management land-use planning and would be in the public interest.

**DATES:** For a period of 45 days from the date of publication of this notice, interested parties may submit comments regarding the proposed lease or classification of the lands to the Area Manager, Redding Resource Area, 355 Hemsted Drive, Redding, California 96002. Any adverse comments will be reviewed by the State Director. In the

absence of any adverse comments, the classification will become effective August 19, 1991.

**SUPPLEMENTARY INFORMATION:** Upon publication of this notice in the *Federal Register*, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease under the Recreation and Public Purposes Act and leasing under the mineral leasing laws.

**ADDRESSES:** Detailed information concerning this action is available for review at the Office of Bureau of Land Management, Redding Resource Area, 355 Hemsted Drive, Redding, California 96002.

**FOR FURTHER INFORMATION CONTACT:** Patricia Cook, Realty Specialist, at the address listed above.

Mark Morse,

Area Manager.

[FR Doc. 91-14721 Filed 6-19-91; 8:45 am]

BILLING CODE 4310-40-M

[CA-050-01-4212-13]

### Realty Action, Acquisition of Lands in Humboldt Co., Calif., Through Exchange

**ACTION:** CA CA 26604 PT, Notice of Realty Action, Acquisition of Lands in Humboldt County, California, through Exchange.

**SUMMARY:** Pursuant to section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), the Bureau of Land Management, Arcata Resource Area, has identified the following described private lands in Humboldt County, California, as being suitable for acquisition by the United States by way of a land exchange with The Nature Conservancy subject to valid existing rights:

T.2S., R.2W., Humboldt Meridian, California  
Section 17, W2NW, NENW;  
Section 18, NWSE.

T.2S., R.3W., Humboldt Meridian, California  
Section 12, Lot 3;  
Section 13, Lots 1 & 2.

Lands are shown on the Humboldt County Assessor's records as AP 104-181-04, 105-031-05, 104-183-01, 105-031-01, containing a total of 308.39± acres.

This notice deals exclusively with the private lands listed above. An amended Notice of Realty Action will address the public (selected) lands to be disposed of by the Bureau of Land Management.

The purpose for acquiring the lands listed above is to improve the Bureau's management of adjoining public land, and to enhance public recreation,



wildlife and riparian habitat at the mouth of the Mattole River. This exchange acquisition will meet the Bureau's land use planning goals and objectives as outlined in the Scattered Tracts Management Framework Plan and interim management under the Draft Arcata Resource Management Plan.

The publication of this notice is for the purpose of soliciting comments on the offered private lands listed above. For a period of 45 days from the date of first publication of this notice, interested parties may submit comments to the address below.

**FOR FURTHER INFORMATION:** Detailed information concerning the exchange, including the draft environmental assessment, is available for review at the address given below, or by calling (707) 822-7648, Lynda J. Roush, Area Manager, BLM—Arcata Resource Area, 1125 16th Street, Room 219, Arcata, CA 95521-5580.

D.E. Averill,

*Supervisory Resource Management Specialist.*

[FR Doc. 91-14720 Filed 6-19-91; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-91-3110-10-B004; CACA 23833, CACA 23834, CACA 23836, CACA 23839, CACA 23914, CACA 23915, CACA 23920, CACA 24290, CACA 24291, CACA 24307, and CACA 24454]

### Exchanges of Public and Private Lands in Kern County, California, and Order Providing for Opening of Public Lands

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice and opening order.

**SUMMARY:** The purpose of these exchanges was to acquire non-Federal lands within the designated Desert Tortoise Research Natural Area. The public interest was well served through completion of these exchanges. The lands acquired in these exchanges will be opened to the operation of the public land laws, subject to all the laws and regulations governing the particular kind of entry, selection, or other disposal. The lands will be opened to mineral leasing. The lands are closed to mining.

**EFFECTIVE DATE:** July 22, 1991.

**FOR FURTHER INFORMATION CONTACT:** Viola Andrade, BLM California State Office, Federal Office Building, 2800 Cottage Way, room E-2845, Sacramento, California 95825, 916-978-4820.

**SUPPLEMENTARY INFORMATION:** Public Land Order 5694, published in the Federal Register, 45 FR 7815, February 5, 1980, withdrew the land described

therein from location and entry under the general mining laws, 30 U.S.C. ch. 2, in aid of a program of the Department of the Interior for the preservation and protection of the desert tortoise for a period of 20 years from the date of publication of the order. The private lands described in this notice became subject to this order upon acceptance of title on behalf of the United States.

1. The United States issued exchange conveyance documents to the exchange proponents listed below under section 206 of the Act of October 21, 1976 (43 U.S.C. 1716), for the following described lands:

Sigmund J. Lichter and Elizabeth C. Lichter, as Trustees of The Sigmund and Elizabeth Lichter Revocable Trust dated August 14, 1980

Serial No. CACA 23833

Date of conveyance: May 1, 1991

Public land description: N $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$  and S $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$  sec. 8, T. 11 N., R. 10 W., S.B.M., containing 80 acres.

Hans Niederberger and Elizabeth R. Niederberger

Serial No. CACA 23834

Date of conveyance: February 22, 1990

Public land description: NW $\frac{1}{4}$ SW $\frac{1}{4}$  sec. 14, T. 32 S., R. 38 E., M.D.M., containing 40 acres.

Mark H. Batz

Serial No. CACA 23836

Date of conveyance: March 4, 1991

Public land description: NW $\frac{1}{4}$ NW $\frac{1}{4}$  and SW $\frac{1}{4}$ SW $\frac{1}{4}$  sec. 8, T. 11 N., R. 10 W., S.B.M., containing 80 acres.

Victor Maron, as Trustee under the Victor Maron and Florence P. Maron Trust Agreement dated April 11, 1973

Serial No. CACA 23839

Date of conveyance: July 20, 1990

Public land description: E $\frac{1}{2}$ NE $\frac{1}{4}$  and W $\frac{1}{2}$ NW $\frac{1}{4}$  sec. 14, T. 32 S., R. 38 E., M.D.M., containing 160 acres.

Barton H. Welsh and Olivia W. Welsh

Serial No. CACA 23914

Date of conveyance: February 26, 1990

Public land description: NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , and W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$  sec. 22, T. 32 S., R. 38 E., M.D.M., containing 340 acres.

George M. Novicoff and Betty Ruth Novicoff

Serial No. CACA 23915

Date of conveyance: January 26, 1990

Public land description: SW $\frac{1}{4}$ SW $\frac{1}{4}$  sec. 14, T. 32 S., R. 38 E., M.D.M., containing 40 acres.

Walter A. Detjen and Patricia A. Detjen

Serial No. CACA 23920

Date of conveyance: February 5, 1990

Public land description: NW $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , and SW $\frac{1}{4}$ SE $\frac{1}{4}$ N sec. 22, T. 32 S., R. 38 E., M.D.M., containing 110 acres.

Raymond H. Smith, Earl Lee Miller, Ronald

Jay Stahl, Guyla W. Stahl, Dennis Lee Stahl, Gwendolyn Ione Day, Chris A. Stahl, Henry J. Sanchez, Barbara A. Sanchez, Odysseas Christou, Anastasia Christou,

Gloria H. Berry, John A. Hendon, Jr., and Dorothy Ferguson.

Serial No. CACA 24290

Date of conveyance: September 13, 1990

Public land description: NE $\frac{1}{4}$ NW $\frac{1}{4}$  sec. 14, T. 32 S., R. 38 E., M.D.M., containing 40 acres.

William J. Howard, Frances E. Howard, Ronald K. Ortt, Henry P. Loustalot, and Clarice W. Gorman

Serial No. CACA 24291

Date of conveyance: July 10, 1990

Public land description: SE $\frac{1}{4}$ NW $\frac{1}{4}$  sec. 14, T. 32 S., R. 38 E., M.D.M., containing 40 acres.

Wojtek Andre Jaskiewicz

Serial No. CACA 24307

Date of conveyance: August 2, 1990

Public land description: S $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$  sec. 8, T. 11 N., R. 10 W., S.B.M., containing 40 acres.

Gale McMahon

Serial No. CACA 24454

Date of conveyance: March 25, 1991

Public land description: NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , and NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$  sec. 8, T. 11 N., R. 10 W., S.B.M., containing 30 acres.

The areas described aggregate 1,000 acres of public land.

2. In exchange for these lands, the United States acquired the following described lands from the above named exchange proponents:

Private land description: Portions of secs. 19, 21, 27, 31, and 33, T. 31 S., R. 38 E., M.D.M.

The areas described aggregate 997.85 acres of private lands.

A specific description of these acquired lands, including exceptions and reservations too numerous to list in this notice, is available in the above listed case files which are located in the California State Office.

3. At 10 a.m. on July 22, 1991, the lands described in paragraph 2 will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 22, 1991, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 10 a.m. on July 22, 1991, the lands described in paragraph 2 will be opened to applications and offers under the mineral leasing laws.

The values of the Federal public lands and the non-Federal lands in the exchange were appraised at \$318,100 and \$315,000, respectively. An equalization payment in the amount of \$2,000 was paid to Barton W. Welsh and Olivia W. Welsh by the United States, and equalization payments in the amounts of \$2,400, \$1,200, and \$1,500 were paid to the United States by Sigmund J. Lichter and Elizabeth C. Lichter, the Desert Tortoise Preserve



Committee on behalf of Wojtek Andre Jaskiewicz, and Gale McMahon, respectively.

Dated: June 10, 1991.

Nancy J. Alex,

Chief, Lands Section.

[FR Doc. 91-14505 Filed 6-19-91; 8:45 am]

BILLING CODE 4310-40-M

[CO-010-01-4212-13: COC-52864]

**Realty Action: Exchange of Public and Private Lands in Grand and Jackson Counties, Colorado**

**AGENCY:** Bureau of Land Management, Department of Interior.

**ACTION:** Notice of realty action.

**SUMMARY:** Pursuant to section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), the Bureau of Land Management, Kremmling Resource Area is considering the following described land in Grand and Jackson Counties as suitable for disposal by exchange. This action is in response to a land exchange proposal submitted by Daniel Ritchie, Grand River Ranch.

**Selected Public Land**

*Sixth Principal Meridian, Colorado*

Muddy Pass—4832.63 acres.

- T. 4N., R. 81W.,  
Sec. 5, Lots 1 & 3, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ ,  
Sec. 7, Lots 3 & 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ ,  
SW $\frac{1}{4}$ SE $\frac{1}{4}$ ,  
Sec. 8, NW $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ ,  
Sec. 17, NW $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ ,  
SE $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
Sec. 18, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
T. 4N., R. 82W.,  
Sec. 1, Lots 5-8;  
T. 5N., R. 81W.,  
Sec. 7, Lots 12 & 13,  
Sec. 17, Lots 11-13,  
Sec. 18, Lots 7-10, 13, 19 & 20,  
Sec. 19, Lots 5, 8, 11-14, 19 & 20,  
Sec. 20, Lots 2-5, 11 & 12,  
Sec. 28, Lots 5-9 & 11-15,  
Sec. 29, Lots 5-8,  
Sec. 30, Lots 5 & 8-12,  
Sec. 31, Lots 5-12, 15-18 & 20,  
Sec. 32, Lots 3 & 9  
Sec. 33, Lots 4, 5 & 12;  
T. 5N., R. 82W.,  
Sec. 23, Lots 1-5  
Sec. 24, Lots 3-5, 12 & 14,  
Sec. 25, Lots 1 & 10.  
Tyler Mtn.—385.04 acres.  
T. 3N., R. 82W.,  
Sec. 24, Lots 3 & 4,  
Sec. 25, Lots 1, 2, 5 & 6,  
Sec. 38, Lots 1, 4, 5 & 11.  
Mitchell—345.42 acres.  
T. 3N., R. 80W.,  
Sec. 30, Lots 8 & 9,  
Sec. 31, Lot 6;  
T. 3N., R. 81W.,  
Sec. 25, W $\frac{1}{2}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ ,  
SE $\frac{1}{4}$ SW $\frac{1}{4}$

The selected lands described above contain 5,563.09 acres, more or less.

In exchange for these lands, the United States will acquire the following described lands from Daniel Ritchie, Grand River Ranch.

**OFFERED PRIVATE LAND:**

*Sixth Principal Meridian*

Williams Fork—2,628.03 acres more or less.  
Metes and Bounds description in Sections 28, 29, 31, 32 and 33, T. 1S., R. 78W., and Sections 5, 7, 8, 17, and 18, T. 2S., R. 78W., and Sections 12 and 13, T. 2S., R. 79W.; containing 2,628.03 acres more or less.  
Red Dirt Reservoir—603.16 acres.  
T. 3N., R. 82W.,  
Tracts 48, 49 & 49A;  
T. 2N., R. 82W.,  
Tract 39A.  
Diamond Creek—91.11 acres.  
T. 5N., R. 81W.,  
Sec. 33, Lots 10 & 15  
The offered lands described above contain 3,322.3 acres more or less.

**FOR FURTHER INFORMATION AND PUBLIC COMMENT:**

Additional information concerning this exchange, is available for review in the Kremmling Resource Area Office at 1116 Park Avenue, Kremmling, Colorado 80459. For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Craig District Office, Bureau of Land Management, 455 Emerson Street, Craig, Colorado 81625. Any adverse comments will be evaluated by the State Director, who may sustain, vacate or modify this realty action.

**SUPPLEMENTARY INFORMATION:** The purpose of this exchange is to facilitate improved resource management and to dispose of scattered, difficult to manage public land parcels while consolidating ownership of other public lands.

The exchange will be completed on an equal value basis. Full equalization of values will be achieved through acreage adjustment, or by cash payment in an amount not to exceed 25 percent of the value of the lands being transferred out of federal ownership.

The exchange will not be completed until all necessary field inventories and environmental assessments are completed.

The following reservations will be made in a patent issued for the public lands:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).
2. A reservation to the United States of all mineral deposits of known value.
3. A reservation of all existing and valid land uses, including grazing leases, unless waived.

Publication of this notice in the Federal Register segregates the public lands from operation of the public land laws and the mining law, except for mineral leasing and exchange under section 206 of FLPMA. The segregated effect will end upon issuance of patent or two years from the date of publication, whichever occurs first.

Dated: June 10, 1991.

William J. Pulford,  
District Manager.

[FR Doc. 91-14723 Filed 6-19-91; 8:45 am]

BILLING CODE 4310-JB-M

[NV-930-91-4212-14; N-50236]

**Realty Action; Sales, Leases, etc.; Nevada; Correction**

**ACTION:** Notice of Realty Action Correction.

**SUMMARY:** This is a correction of the Notice of Realty Action (NORA) published in the Federal Register, April 25, 1991, Vol. 56, No. 80, pp. 19122-23 (FR Doc. 91-9729). The NORA is hereby corrected to read as follows:

"Notice is given that pursuant to the Act of October 21, 1976 (43 U.S.C. 1713, sec. 203), the Bureau of Land Management is offering for sale, two parcels of public land, ten acres each. The parcels will be sold to the highest bidder for no less than the appraised value of \$250.00 per acre. Bids may be received by the Bureau of Land Management on either parcel or both. Do Not submit a bid for part of one parcel. The parcels are described as follows:

**Mount Diablo Meridian, Nevada**

- T. 37 N., R. 38 E., Sec. 33,  
Parcel 1: SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$   
Parcel 2: SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$

The date of the sale is changed from June 19, 1991 to July 15, 1991. All other information contained in the NORA as published April 25, 1991, remains the same and is not changed.

**FOR FURTHER INFORMATION CONTACT:**

Hal Green, District Realty Specialist, Winnemucca District Office, Bureau of Land Management, 705 E. 4th St., Winnemucca, NV 89445, (702) 623-1539.

Dated: June 5, 1991.

Ron Wenker,  
Winnemucca District Manager.

[FR Doc. 91-14722 Filed 6-19-91; 8:45 am]

BILLING CODE 4310-HC-M



[ID-943-01-4214-11; IDI-15701]

**Proposed Continuation of Withdrawal; Idaho****AGENCY:** Bureau of Land Management, Idaho.**ACTION:** Notice.

**SUMMARY:** The Bureau of Land Management proposes that a 134.30 acre withdrawal for Powersite Classification No. 50, continue for an additional 20 years. The land has a potential for waterpower development. These lands will remain closed to surface entry, but have been and would remain open to mineral leasing and mining.

**DATE:** Comments should be received on or before September 18, 1991.

**FOR FURTHER INFORMATION CONTACT:** Larry R. Lievsay, Idaho State Office, BLM, 3380 Americana Terrace, Boise, Idaho 83706, (208) 384-3168.

The Bureau of Land Management proposes that the existing land withdrawal made by Secretarial Order dated September 29, 1922, for Powersite Classification No. 50, be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, insofar as it affects the following-described land:

**Boise Meridian**

T. 27 N., R. 1 E.,

Sec. 15, lot 4.

T. 24 N., R. 21 E.,

Sec. 16, lot 1;

Sec. 18, lots 4 and 9.

The area described contains 134.30 acres in Idaho and Lemhi Counties.

The withdrawal is essential for protection of potential waterpower development. The withdrawal closed the described land to surface entry but not to mineral leasing and mining. No change in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Idaho State Director at the above address.

The authorized officer of the Bureau of Land Management will undertake such investigations as necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued; and if so, for how long. The final determination of the withdrawal will be published in the

**Federal Register.** The existing withdrawal will continue until such final determination is made.

Dated: June 6, 1991.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 91-14719 Filed 6-19-91; 8:45 am]

BILLING CODE 4310-GG-M

**National Park Service****Natchez National Historical Park; Environmental Impact Statement****AGENCY:** National Park Service, Interior.**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91-190, the National Park Service (NPS), Natchez National Historical Park, is preparing an Environmental Impact Statement (EIS) to assess the impacts of alternative management strategies for the park, which will be described in a General Management Plan (GMP). A range of alternatives will be formulated for resource protection, visitor use and interpretation, facilities development and operations.

Persons wishing to provide input to the scoping process for the GMP and EIS should address comments to the Superintendent, Natchez National Historical Park, P.O. Box 1086, Natchez, Mississippi 39121. Comments should be received no later than 60 days from the publication of this notice. For further information, contact the Superintendent, Natchez National Historical Park, at the above address, or at telephone (601) 442-7047.

The responsible official is Robert M. Baker, Regional Director, Southeast Regional Office, National Park Service, 75 Spring Street, SW, Atlanta, Georgia 30303. The draft GMP and EIS are expected to be completed and available for public review by early 1992. The final GMP, EIS and Record of Decision are expected to be completed in late 1992.

Dated: June 11, 1991.

C.W. Ogle,

Acting Regional Director, Southeast Region.

[FR Doc. 91-14755 Filed 6-19-91; 8:45 am]

BILLING CODE 4310-70-M

**Gulf Islands National Seashore; Advisory Commission Meeting****AGENCY:** National Park Service, Interior.**ACTION:** Notice of Advisory Commission meeting.

**SUMMARY:** Notice is hereby given in accordance with the Federal Advisory Committee Act of 1972, Public Law 92-463, 86 Stat. 770, that a meeting of the Gulf Islands National Seashore Advisory Commission is scheduled for Friday, July 26. The commission was established pursuant to Public Law 91-660, January 8, 1971. The purpose of the commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of the Gulf Islands National Seashore and on matters relating to zoning within the seashore. The meeting will convene on July 26 at the Naval Live Oaks Visitor Center auditorium in Gulf Breeze, Florida, at 1:30 p.m.

The matters to be discussed at this meeting will include:

- (1) Superintendent's Annual Report.
- (2) Status of natural resource management projects.
- (3) Status of cultural resource management projects.
- (4) Other business.

The meeting will be open to the public. However, facilities and space for accomodating members of the public are limited, and it is expected that not more than 20 persons will be able to attend the meeting in addition to the commission members. Any member of the public may file with the commission a written statement concerning the matters to be discussed. Written statements may also be submitted to the Superintendent. Further information concerning this meeting may be obtained from the Superintendent, Gulf Islands National Seashore, 1801 Gulf Breeze Parkway, Gulf Breeze, Florida 32561.

Dated: June 11, 1991.

C.W. Ogle,

Regional Director, Southeast Region.

[FR Doc. 91-14756 Filed 6-19-91; 8:45 am]

BILLING CODE 4310-70-M

**INTERSTATE COMMERCE COMMISSION****[Ex Parte No. 290 (Sub No. 5) (91-3)]****Quarterly Rail Cost Adjustment Factor****AGENCY:** Interstate Commerce Commission.**ACTION:** Approval of rail cost adjustment factor and decision.

**SUMMARY:** The Commission has approved the third quarter 1991 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The third quarter



RCAF (Unadjusted) is 1.148. The third quarter RCAF (Adjusted) is 1.045, a decrease of 0.6 percent from the second quarter 1991 RCAF (Adjusted) of 1.045. Maximum third quarter 1991 RCAF rate levels may not exceed 99.4 percent of maximum second quarter 1991 RCAF rate levels.

**EFFECTIVE DATE:** July 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** William T. Bono, (202) 275-7354; Robert C. Hasek, (202) 275-0938; TDD for hearing impaired (202) 275-1721.

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to, or call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or telephone (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD service (202) 275-1721.)

This action will not significantly affect either the quality of the human environment or energy conservation.

Decided: June 13, 1991.

By the Commission, Chairman Philbin, Vice Chairman Emmett, Commissioners Simmons, Phillips, and McDonald.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-14736 Filed 6-19-91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31880]

**Wisconsin Central Ltd.—Purchase—Chicago and North Western Transportation Co. Line Between South Itasca and Cameron, WI; Decision**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of decision accepting application for consideration.

**SUMMARY:** The Commission is accepting for consideration the application filed on May 21, 1991, by Wisconsin Central Ltd. (WCL) and Chicago and North Western Transportation Company (CNW) (collectively applicants). WCL seeks to purchase a 97.03-mile continuous line of CNW railroad between South Itasca and Cameron, WI. Pursuant to 49 CFR part 1180, the Commission finds this to be a minor transaction.

**DATES:** Written comments must be filed with the Interstate Commerce Commission no later than July 22, 1991 and concurrently served on applicants' representatives, the United States Secretary of Transportation, and the

Attorney General of the United States. Comments from the Secretary of Transportation and Attorney General of the United States must be filed by August 6, 1991. The Commission will issue a service list shortly thereafter. Comments must be served on all parties of record within 10 days of the Commission's issuance of the service list and confirmed by certificate of service filed with the Commission indicating that all designated individuals and organizations on the service list in this proceeding have been properly served copies of these comments. Applicants' reply is due by August 26, 1991.

**ADDRESSES:** Send original and 10 copies of all documents to: Office of the Secretary, Case Control Branch, attn: Finance Docket No. 31880, Interstate Commerce Commission, Washington, DC 20423.

In addition, concurrently send one copy of all documents to the United States Secretary of Transportation, the Attorney General of the United States, and to applicant's representatives:

Docket Clerk, Office of Chief Counsel,  
Federal Railroad Administration,  
room 8201, 400 Seventh St. SW.,  
Washington, DC 20590.

Attorney General of the United States,  
United States Department of Justice,  
10th & Constitution Ave., Washington,  
DC 20530.

William C. Sippel, Oppenheimer Wolff & Donnelly, Two Illinois Center, 233 North Michigan Avenue, suite 2400, Chicago, IL 60601.

Stuart F. Gassner, Chicago and North Western Transportation Company, 165 North Canal Street, Chicago, IL 60606.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 275-7245, (TDD for hearing impaired: (202) 275-1721).

**SUPPLEMENTARY INFORMATION:** By application filed May 21, 1991, Wisconsin Central Ltd. (WCL) and Chicago and North Western Transportation Company (CNW), collectively referred to as applicants, seek approval under 49 U.S.C. 11343, *et seq.*, for WCL to purchase CNW's line between milepost 49.00 at Cameron, WI and milepost 87.13 at Trego, WI and between milepost 0.00 at Trego (same point) and milepost 58.90 at South Itasca, WI, a total distance of 97.03 miles (Cameron Line).<sup>1</sup> Applicants

intend to consummate the transaction as soon as practicable after the Commission's order approving this application becomes effective. Applicants contend that this is a minor transaction under 49 CFR 1180.2(c), and they have submitted an application in accordance with the railroad consolidation procedures at 49 CFR part 1180 for minor transactions.

Applicants also intend to consummate, simultaneously with the purchase of the Cameron Line, related transactions in the following proceedings: (1) Finance Docket No. 31881, Wisconsin Central Ltd.—Trackage Rights Exemption—Over Duluth, Missabe and Iron Range Railway Company (notice of exemption served June 6, 1991), where the Duluth, Missabe and Iron Range Railway Company (DMIR) has agreed to grant trackage rights to WCL between South Itasca and Saunders, WI and South Itasca and Ambridge, WI, allowing WCL to access the Cameron Line at the north end and to effect interchange with other rail carriers at Superior, WI; (2) Finance Docket No. 31882, Chicago and North Western Transportation Company—Trackage Rights Exemption—Over Wisconsin Central Ltd. (notice of exemption served June 6, 1991), where WCL has agreed to grant trackage rights to CNW between Cameron and Wisconsin Rapids, WI, providing CNW with an alternate route between Cameron and CNW's main line at Necedah, WI; and (3) Docket No. AB-303 (Sub-No. 8X), Wisconsin Central Ltd.—Abandonment Exemption—In Barron County, WI (petition for exemption filed under 49 U.S.C. 10505 on May 21, 1991), where WCL seeks to abandon its exiting parallel line between Cameron and Rice Lake, WI.

WCL, an Illinois corporation, is a Class I common carrier operating over 2,000 route miles of rail lines in the States of Illinois, Michigan, Minnesota and Wisconsin and in the Province of Ontario, Canada.<sup>2</sup> At the time of the original acquisition of the lines from Soo Line Railroad Company (Soo) that created WCL, Soo declined to sell to WCL its line between Ladysmith, WI and Superior, WI (Ladysmith Line) and instead granted restricted trackage

<sup>2</sup> WCL had been a Class II carrier since its formation in 1987, but was reclassified as a Class I carrier effective January 1, 1991. In Ex Parte No. 492 (Sub-No. 1) Montana Rail Link, Inc. and Wisconsin Central Ltd., Petition for Temporary Accounting and Reporting Exception from 49 CFR part 1201 (not printed), served February 4, 1991, the Commission temporarily excepted WCL for 1 year from the accounting and reporting requirements otherwise applicable to Class I rail carriers.

<sup>1</sup> As part of the transaction, WCL will purchase CNW's terminal and yard facilities at Spooner, WI and also acquire the right to use a portion of CNW's "New Yard" at South Itasca.



rights prohibiting WCL's handling of most overhead traffic over that line.<sup>3</sup> These trackage rights have otherwise given WCL direct access to the Duluth, MN/Superior, WI (Duluth/Superior) market, including access to all industries open to WCL and interchange with rail and water carriers at Duluth/Superior.

CNW, a Delaware corporation, is a Class I common carrier operating over 5,000 route miles of rail lines in the States of Illinois, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, South Dakota, Wisconsin and Wyoming. It will retain overhead trackage rights over the Cameron Line. It will also continue to own and operate the Trego-Hayward, WI branch line and will continue to serve all industries at Trego exclusively.

Applicants do not expect that the proposed transaction will in any way lessen intramodal competition nor create a monopoly or restrain trade in freight surface transportation in any region in the United States. Applicants state that the proposed transaction is pro-competitive and will improve the adequacy of transportation service to the public. As a result of the proposed transaction, WCL will have an alternate route to Duluth/Superior free of the contractual traffic restrictions associated with its existing route via trackage rights over Soo's Ladysmith Line. According to applicants, WCL will be able to solicit and compete on an unrestricted basis with the other competing carriers—CNW, Soo and Burlington Northern Railroad Company (BN)—for overhead traffic moving via the Duluth/Superior gateway. By virtue of its retained trackage rights over the Cameron Line, newly acquired trackage rights over WCL's lines between Cameron and Wisconsin Rapids, and existing trackage rights between South Itasca and Necedah, WI, CNW would also have an alternate service route in the Duluth/Superior-Chicago corridor. Applicants say that the proposed transaction therefore will provide shippers with increased intramodal competition and new price and service options on overhead traffic between Duluth/Superior and Chicago.<sup>4</sup>

<sup>3</sup> The Ladysmith Line roughly parallels the Cameron Line that WCL seeks to purchase from CNW. WCL attempted to purchase the Ladysmith Line last fall, but parties were unable to agree on terms. Since 1989, Soo for a fee has waived the overhead traffic restriction to permit WCL to handle approximately 12,000 carloads of certain iron ore traffic between Duluth/Superior and Chicago.

<sup>4</sup> Applicants also note that the proposed transaction will assure an additional friendly connection to Canadian National Railway Company (CN) and its subsidiary, Duluth, Winnipeg and Pacific Railroad Company (DWP), for the Canadian traffic moving via DWP through the Duluth/Superior

Applicants also say that all local industries on the Cameron Line not served by CNW will be served by WCL, that no industry will lose rail service as a result of the proposed transaction, that the increased line density brought about by the consolidation of CNW and WCL operations over a single line will permit maintenance of the line to competitive standards, and that WCL will maintain the Cameron Line and its lines between Ladysmith and Wisconsin Rapids at FRA Class III standards to maintain an effective service route between Duluth/Superior and Chicago. Applicants also note that the proposed transaction has the potential for serving as the initial phase of a multi-carrier rationalization of lines in northwestern Wisconsin with the potential to eliminate excess rail facilities and improve service without any reduction in competition.<sup>5</sup>

Under the Asset Purchase Agreement, WCL will pay CNW \$5,800,000 for the Cameron Line and other related assets, plus the additional amounts for listed equipment. CNW will pay \$.35 per loaded car mile for trackage rights over WCL lines between Cameron and Wisconsin Rapids. As an incentive to CNW to operate its trains over WCL's line between Cameron and Wisconsin Rapids (in lieu of CNW's own line via Eau Claire, WI), WCL will pay CNW \$11.90 per loaded car handled by CNW over WCL's line between Cameron and Ladysmith. WCL projects an increase of approximately 14,000 carloads (excluding existing traffic and overhead iron ore traffic) generating approximately \$10.6 million in gross freight revenue in the first year following acquisition of the line. In addition, WCL expects to save approximately \$1 million annually in trackage rights fees by handling existing Duluth/Superior through traffic via the Cameron Line instead of via its trackage rights over Soo's Ladysmith Line. Subtracting the cost of maintaining the

gateway as a partial substitute for Soo as Soo is absorbed into Canadian Pacific, Ltd.'s rail system. CN's major competitor.

<sup>5</sup> As noted, WCL has attempted unsuccessfully to purchase the Ladysmith Line from Soo. However, a dispute over Soo's right under the original asset purchase agreement with WCL to require WCL to purchase the Ladysmith Line and the terms on which Soo may exercise that right are currently the subject of litigation in the *Soo Line Railroad Company v. Wisconsin Central Ltd.*, No. 3-90-81 (D. Minn.). If WCL should purchase the Ladysmith Line, it would rationalize the two parallel lines by filing the appropriate applications or petitions for exemption with the Commission at that time. According to applicants, consummation of the Cameron Line purchase is in no way contingent on any future transaction with Soo involving the Ladysmith Line.

Cameron Line, yields net savings of approximately \$250,000 annually.<sup>6</sup>

WCL will not incur any additional debt in connection with its purchase of the Cameron Line. Consequently, the proposed transaction will not result in any increase in fixed charges. The proposed purchase will be funded with internally generated funds and does not involve the issuance of any new securities.

WCL currently operates one through train in each direction per day between the Duluth, Winnepeg and Pacific's Pokegama Yard at Superior and WCL's yard at Stevens Point, WI (on WCL's Twin Cities-Chicago mainline 11 miles east of Junction City, WI). These trains operate via trackage rights over Soo's Ladysmith Line. Extra through trains, such as to handle iron ore traffic, are operated as needed. After the transaction is completed, these through trains will be rerouted to operate between Pokegama Yard and Stevens Point via the Cameron Line. WCL expects to create 11 additional positions to handle the increased traffic volumes and maintenance responsibility associated with acquisition of the Cameron Line.<sup>7</sup> The proposed transaction will have no effect on existing WCL employees.

The transaction will result in the abolition of 13 CNW positions.<sup>8</sup> CNW does not expect abolition of any train or engine positions as a result of the proposed transaction. Applicants acknowledge that the appropriate level of labor protection in a purchase transaction is that set forth in New York Dock Ry.—Control—Brooklyn East, Dist., 360 I.C.C. 60 (1979), as clarified in Wilmington Term. RR, Inc.—Pur. & Lease—CSX Transp., Inc., 6 I.C.C. 2d 799 (1990).

Under 49 CFR 1180.4(b)(2)(iv), we must determine whether a proposed transaction is major, significant, minor, or exempt. Although the proposal here involves two Class I rail carriers,<sup>9</sup> it has

<sup>6</sup> In addition, there will be annual savings to WCL from the related abandonment of its Cameron-Rice Lake line, although the amount has not been quantified.

<sup>7</sup> At Spooner, WCL expects to add one maintenance of way foreman, one maintenance of way laborer, and one maintenance of way machine operator. At Solon Springs, WI, WCL expects to add one maintenance of way foreman and one maintenance of way laborer. At Stevens Point, WCL expects to add six train service employees.

<sup>8</sup> At Spooner, CNW expects abolition of 11 BMW (maintenance) personnel positions and one signal maintainer position. At Altoona, WI, CNW expects abolition of one lineman electrician position.

<sup>9</sup> As noted, WCL has been temporarily excepted from only the accounting and reporting requirements for Class I railroads.



no regional or national significance and will not result in a major market extension. Between Duluth/Superior and Chicago, WCL's primary gateway, the Cameron Line route is approximately 30 miles longer than via WCL's existing Ladysmith Line route. Acquisition of the Cameron Line therefore will not create a shorter route for WCL to and from Duluth/Superior. By acquiring the Cameron Line, WCL will have the opportunity to compete for overhead traffic on an unrestricted basis in the Duluth/Superior market. Three other rail carriers (BN, CNW, and Soo) currently serve this market and WCL has served all other segments of this market since its formation in October of 1987. Thus, WCL's acquisition of the Cameron Line will not extend its haul on any existing traffic beyond existing interchanges, will not significantly increase its service capabilities on traffic moving to and from Duluth/Superior, and will not result in any curtailment of service by any of the other competing rail carriers now serving Duluth/Superior.

Accordingly, we find that the proposal is a minor transaction as defined in 49 CFR 1180.2(c). Since the application complies with our regulations governing minor transactions, we are accepting it for consideration.

The application and exhibits are available for inspection in the Public Docket Room at the Offices of the Interstate Commerce Commission in Washington, DC. In addition, they may be obtained upon request from applicants' representatives named above.

Any interested persons, including government entities, may participate in this proceeding by submitting written comments. Any person who files timely written comments shall be considered a party of record if the comments include a request for that status. Accordingly, no petition for leave to intervene need be filed.

Consistent with 49 CFR 1180.4(d)(1)(iii), written comments must contain:

- (a) The docket number and title of the proceeding;
- (b) The name, address, and telephone number of the commenting party and its representative upon whom service shall be made;
- (c) The commenting party's position, i.e., whether it supports or opposes the proposed transaction;
- (d) A statement of whether the commenting party intends to participate formally in the proceeding or merely comment upon the proposal;
- (e) If desired, a request for an oral hearing with reasons supporting this request; the request must indicate the

disputed material facts that can only be resolved at a hearing; and

(f) A list of all information sought to be discovered from applicant carriers.

Because we have determined that the proposal in this proceeding constitutes a minor transaction, no responsive applications will be permitted. The time limits for processing a minor transaction are set forth at 49 U.S.C. 11345(d).

Discovery may begin immediately. We admonish the parties to resolve all discovery matters expeditiously and amicably.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

*It is ordered:*

1. This application is accepted for consideration as a minor transaction under 49 CFR 1180.2(c).

(2) The parties shall comply with all provisions as stated above.

3. This decision is effective on June 19, 1991.

Decided: June 12, 1991.

By the Commission, Chairman Philbin, Vice Chairman Emmett, Commissioners Simmons, Phillips, and McDonald.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-14738 Filed 6-19-91; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF JUSTICE

### Antitrust Division

[Civil Action No. 91-CV-32-74]

#### United States v. Brown University, et al.; Competitive Impact Statements and Proposed Consent Judgment

##### Correction

In notice document 91-13287 concerning *U.S. v. Brown University, et al.*, appearing in the issue of Thursday, June 6, 1991 at 56 FR 26156, the following corrections are made to the published signatures to the Stipulation: Ronald G. Carr (Counsel for the Trustees of Princeton University), Bruce D. Sokler (Counsel for the Trustees of Dartmouth College), and Roger Fendrich (Counsel for Yale University).

Counsel for Massachusetts Institute of Technology ("MIT") was also incorrectly identified as signing the Stipulation. MIT is not a signatory to the Stipulation.

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 91-14710 Filed 6-19-91; 8:45 am]

BILLING CODE 4410-01-M

### National Cooperative Research, Bell Communications Research, Inc.; Notification

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc. ("Bellcore") on May 21, 1991, filed a written notification on behalf of Bellcore and Nederlandse Philips Bedrijven B.V., ("Philips") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objective of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the venture, and its general area of planned activities, are given below.

Bellcore is a Delaware corporation with its principal place of business at 290 W. Mt. Pleasant Avenue, Livingston, New Jersey 07039.

Philips is a corporation of The Netherlands having a place of business whose address is P.O. Box 218, 5600 MD Eindhoven, The Netherlands.

On April 22, 1991, Bellcore and Philips entered into an agreement to engage in cooperative research in the field of video communication including architectures for such video communication systems and transmission and coding techniques and to cooperate in studies to obtain a better understanding of the feasibility and applicability of the above-mentioned technologies and of the possible partitioning of various functions over the public network (including exchange and exchange access portions thereof), the network access point, the in-house communication system, and the connected sets, including prototype fabrication and demonstration of the mentioned technologies in experimental systems.

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 91-14704 Filed 6-19-91; 8:45 am]

BILLING CODE 4410-01-M

### National Cooperative Research Ethanol Joint Venture; Notification

Notice is hereby given that, on May 16, 1991, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Amrep, Incorporated filed a written notification simultaneously with the



Attorney General and the Federal Trade Commission disclosing a change in the membership of the Ethanol Joint Venture ("Joint Venture"). The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. The current membership is:

Amrep, Inc.; CCL Custom Manufacturing, Inc.; Calgon Vestal Laboratories; Caltech Industries Inc.; Catalytic Generators; Cello/Grow Group, Inc.; Central Solutions Inc.; Chemical Specialties Manufacturers Association; Claire Manufacturing; Ecolab, Inc.; Dymon, Inc.; Hysan Corporation; S.C. Johnson Wax; L & F Products Group (National Laboratories); MDT Corporation; Penn Champ, Inc.; Spartan Chemical Company; and Zep Manufacturing Company.

No other changes have been made in either the membership, the objectives or the planned activities of the Joint Venture.

On June 1, 1990, S.C. Johnson & Son, Incorporated filed the original notification concerning the Joint Venture pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on July 5, 1990, at 55 FR 27700.

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 91-14705 Filed 6-19-91; 8:45 am]

BILLING CODE 4410-01-M

#### National Cooperative Research MCNC; Notification

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), MCNC (formerly the Microelectronics Center of North Carolina) on April 2, 1991, filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in the membership of MCNC. The additional written notification was filed for the purpose of extending the protections of Section 4 of the Act, limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On June 6, 1988, MCNC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice (the "Department") published a notice in the Federal Register pursuant to Section 6(b) of the Act on August 1, 1988 (53 FR 28922). On December 19, 1989, MCNC filed an additional written notification. The Department published a notice in the Federal Register in response to the additional notification on February 12, 1990 (55 FR 4918).

Effective April 2, 1991, NCR Corporation and LAM Research Corporation have been admitted as affiliates of MCNC, and Megatest Corporation is no longer an affiliate of MCNC.

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 91-14706 Filed 6-19-91; 8:45 am]

BILLING CODE 4410-01-M

#### National Cooperative Research Petroleum Environmental Research Forum; Notification

Notice is hereby given that, on May 13, 1991, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301, *et seq.* ("the Act"), the Petroleum Environmental Research Forum ("PERF") filed written notifications simultaneously with the Attorney General and with the Federal Trade Commission disclosing a change in the membership of PERF. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the notification stated that the following additional parties have become members of PERF: Lion Oil Company, 1000 McHenry Avenue, El Dorado, Arkansas 71730; and Phibro Refining, Inc., 8934 Manchester, Houston, Texas 77012.

No other changes have been made in either the membership or the planned activities of PERF.

On February 10, 1986, PERF filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on March 14, 1986 (51 FR 8903). On May 6, 1986, May 27, 1986, June 23, 1986, February 3, 1989, March 21, 1989, October 31, 1989, April 19, 1990, and June 25, 1990, PERF filed additional written notifications. The Department published notices in the Federal Register in response to these additional notifications on June 9, 1986, (51 FR 20897), June 19, 1986 (51 FR 22365), July 17, 1986 (51 FR 25957), March 1, 1989 (54 FR 8607), April 20, 1989 (54 FR 16014), December 8, 1989 (54 FR 50661), May 30, 1990 (55 FR 21951), and July 19, 1990 (55 FR 21951), respectively.

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 91-14707 Filed 6-19-91; 8:45 am]

BILLING CODE 4410-01-M

#### National Cooperative Research Notification; Reckitt & Colman Household Products (NY 235 Consortium) Joint Venture

Notice is hereby given that, on May 20, 1991, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), written notice has been filed by Reckitt & Colman Household Products simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the New York 235 Consortium ("Joint Venture") and (2) the nature and objectives of the Joint Venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the Joint Venture and its general areas of planned activity are given below.

The parties to the Joint Venture are: J&L Adikes, Inc.; American Cyanamid Company; American Home Products Corporation; American Household Products; American Wax Co. Inc.; Amrep, Inc.; Avon Products, Inc.; Bengal Chemical, Inc.; Betco Corporation; Big D Industries, Inc.; Bonide Products; Brondow, Inc.; Buckingham Wax Co., Inc.; Butcher Company; Calgon Vestal Laboratories; Caltech Industries, Inc.; Car Freshner Corporation; Carroll Company; Carter Wallace, Inc.; Cello/Grow Group, Inc.; Cetylite Industries, Inc.; Chase Products Company; Chemical Specialties Manufacturers Association; Chemsico; Ace Hardware; K-Mart; Spectrum Group; Chevron Chemical Co.; Church & Dwight, Co., Inc.; Claire Manufacturing Co.; Combe Incorporated; ConAgra Pet Products, Inc.; CSA Limited, Inc.; Davies-Young Company; Buckeye International, Inc.; E. Davis Inc.; Dexcel Industries; The Dial Corporation; Diversey Wyandotte Corporation; DowBrands, Inc.; The Drackett Company; DuBois Chemicals, Inc.; DVM (Dermatologics for Veterinary Medicine); Dymon, Inc.; Ecolab Inc.; Eight in One Pet Products Inc.; Enforcer Products; Epic Industries; Fairfield American Corporation; Farnum Companies, Inc.; FMC Corporation; Foster & Co. Inc.; Four Paws Products, Ltd.; Fuller Industries Inc.; Halbro Control Industries; Hartz Mountain Corporation; Huntington Laboratories, Inc.; Hysan Corporation; IBG Corporation; Walco-Linck Co.; IGI, Inc.; International Minerals & Chemicals Corporation; Coopers Animal Health Inc.; Pitman-Moore, Inc.; S.C. Johnson



Wax; King Research Inc.; Knight Oil Co.; L & F Products Group; The d-Con Company; National Laboratories; U.S. Professional Laboratories; Winthrop Pharmaceuticals; Withrop Veterinary; Magnum Research Corporation; Mason Chemical Company; McLaughlin Gormley King Co.; Midco Prod. Co., Inc.; CDC Products Corporation; Miles Inc.; National Chemical Laboratories, Inc.; NCH Corporation; Noble Pine Products Co.; Omni Tech International; OSR-Cleaning Specialties; Platte Chemical Co.; Pollitt, Inc.; Stanson Corporation; PortionPac Chemical Corporation; Positive Formulators, Inc.; Prentiss Drug & Chem. Co., Inc.; J.L. Prescott Company; Purex Industrial; Reckitt & Colman Household Products; Airwick Industries; Boyle Midway; Aveco Company, Inc.; Fort Dodge Laboratories, Inc.; Franklin Laboratories, Inc.; Rite-Off, Inc.; RocCorp, Inc.; Rockland Chemical Co.; Roussel Bio Corp.; Russell Products, Inc.; Safeguard Chem. Corp.; Contact Industries; Schering-Plough Healthcare Products Inc.; Scott Sani-Fresh International; Scott's Liquid Gold Inc.; Service Master Co.; Terminix International; Sidmar Enterprises, Inc.; SmithKline Beecham Animal Health; Adams Veterinary Laboratories; Affiliated Laboratories; Beecham Laboratories; Norden Laboratories; SmithKline Beecham Consumer Brands; Spartan Chemical Co., Inc.; Speer Products, Inc.; Shirlo Division; Sprayon Products, Division of Sherwin Williams; Stanhome Inc.; State Chem. Manufacturing Co.; Stearns Packaging Corporation; UAP Special Products; Uncle Sam Chemical Co., Inc.; Union Camp Corporation; Unsmoke, USA Group; Virbac, Inc.; Carson Chemicals, Inc.; Waterbury Companies, Inc.; Wave Energy Systems, Inc.; Whink Products Co.; Whitmire Research Laboratories, Inc.; Zema Corporation; Zep Manufacturing Co.; Zoe Chemical Co.; Zoecon Corporation.

The objective of the Joint Venture is to sponsor and conduct research studies relating to the reduction of VOC emissions resulting from the use of air freshener, disinfectant and insecticide products sold within the New York Metropolitan area as required by the New York State Department of Environmental Conservation (NYSDEC) pursuant to 6 NYCRR 235 and to submit the results of this research to NYSDEC as required by part 235, Environmental Conservation Law, sections 3-0301 and 19-G301(1)(a).

Membership in the Joint Venture remains open, and the parties intend to

file additional written notification disclosing any changes in membership.

Joseph H. Widmar,

*Director of Operations Antitrust Division.*

[FR Doc. 91-14709 Filed 6-19-91; 8:45 am]

BILLING CODE 4410-01-M

### UNIX International, Inc; National Cooperative Research Notification

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), UNIX International, Inc. ("UNIX") on May 17, 1991, filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The additional written notification was filed for the purpose of extending the protections of section 4 of the Act, limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On January 30, 1989, UNIX filed its original notification pursuant to section 6(a) of the Act. The Department of Justice (the "Department") published a notice in the *Federal Register* pursuant to section 6(b) of the Act on March 1, 1989 (54 FR 8608). On May 4, 1989, August 1, 1989, October 31, 1989, January 31, 1990, May 1, 1990, July 30, 1990, November 13, 1990, and February 6, 1991, UNIX filed additional written notifications. The Department published notices in the *Federal Register* in response to the additional notifications on June 22, 1989 (54 FR 26266), August 17, 1989 (54 FR 33985), November 29, 1989 (54 FR 49124), March 14, 1990 (55 FR 9517), May 21, 1990 (55 FR 20862), September 17, 1990 (55 FR 38173), December 28, 1990 (55 FR 53368), and March 15, 1991 (56 FR 11273), respectively.

As of May 9, 1991, the following have become members of UNIX International, Inc.:

Advanced SW Technology Res. Inst. of Kyoto  
Centre National d'Etudes des Telecomms  
Chinese University of Hong Kong  
Computer Center, Tohoku University  
CREO  
EDS  
Facom Center Association  
Facom Software Association  
GIPSI S.A.  
Hitachi Micro Systems, Inc.  
Hyatt Hotels Corporation  
IXI Limited  
J.C. Penney Co., Inc.  
Kubota Pacific Computer, Inc.  
Lionel Singer Corporation, Inc.  
MANA Systems Limited  
Marriott Corporation  
Marshfield Clinic  
NTA Japan Technociates

NUC

OSA

OTSUKA SHOKAI

Pacific Dunlop Limited Patriot Partners

Petroleos de Venezuela, S.A.

POSIX Software Group

SANYO

Seiko Epson Corporation

SISA ACCOUNTING software

Tetra Ltd.

Texas A&M University, Computing Services

United States Air Force

University of British Columbia

Wollongong Group, Inc.

Joseph H. Widmar,

*Director of Operations Antitrust Division.*

[FR Doc. 91-14708 Filed 6-19-91; 8:45 am]

BILLING CODE 4410-01-M

### Parole Commission

#### Elimination of the Western Region and Incorporation of States Formerly in the Western Region in the North Central and South Central Regions

**AGENCY:** United States Parole Commission, Justice.

**ACTION:** Notice of regional office closing and redefinition of regional boundaries.

**SUMMARY:** The U.S. Parole Commission is eliminating its Western Region and Western Regional Office, and incorporating the states presently included in the Western Region into the North Central and South Central Regions. The purpose of this change is to permit the Commission to manage its affairs more efficiently in view of its declining caseload and statutorily-scheduled abolition on November 1, 1997.

**EFFECTIVE DATE:** October 18, 1991.

**FOR FURTHER INFORMATION CONTACT:** Richard Preston, Attorney, Telephone (301) 492-5959.

**SUPPLEMENTARY INFORMATION:** The U.S. Parole Commission has the authority, under 18 U.S.C. 4203(a)(2) (1976), to " \* \* create such regions as are necessary to carry out the provisions of this chapter [The Parole Commission and Reorganization Act of 1976]." There are currently five regions. Under this system, all cases not specially designated for the Commission's original jurisdiction are initially decided by Regional Commissioners, or Acting Regional Commissioners, who exercise delegated authority from the Commission to grant or deny applications for parole, to impose parole conditions, and to modify or revoke an order of parole. See 18 U.S.C. 4203(c)(1) (1976).

Under the Sentencing Reform Act of 1984 (as amended) Public Law 98-473,



the Parole Commission's jurisdiction is limited to federal prisoners and parolees who committed their offenses prior to November 1, 1987, and the Commission is scheduled for abolition on November 1, 1997. Accordingly, the Commission's caseload is declining, and the Commission is obliged to implement an orderly reduction of its operations. This includes the closing of regional offices, as well as reductions in the agency's staff.

In addition to the consolidation of the Northeast and Southeast Regional Offices with the Commission's headquarters in Chevy Chase, Maryland (with a view toward eventual creation of a single Eastern Region), the Commission has decided to eliminate its Western Region, and to close the Western Regional Office in Belmont, California. The states that now comprise the Western Region will be reassigned to the North Central and South Central Regions, so as to divide among the Regional Commissioners for those regions the jurisdiction presently exercised by the Acting Regional Commissioner for the Western Region. As of the effective date of this action (October 18, 1991), all cases in the Western Region that are pending a decision from the Commission will fall under the jurisdiction of either the North Central or the South Central Region, according to the assignment of states listed below.

In preparation for this transfer of jurisdiction, the Commission will attempt to have its case files transferred to the appropriate regional office at least two weeks prior to the effective date. Prisoners, parolees, and interested members of the public are advised, in addressing administrative appeals, petitions for reopening, and other communications to the Commission after October 1, 1991, to address their communications to the appropriate regional office in order to avoid delay. The addressees are as follows:

North Central Regional Office, U.S. Parole Commission, 10920 Ambassador Drive, Airworld Center, suite 220, Kansas City, Missouri 64153.  
South Central Regional Office, U.S. Parole Commission, 525 Griffin Street, suite 820, Dallas, Texas 75202.

Jurisdiction is determined by the state in which the prisoner is confined, or in which the parolee is under supervision, or in which the hearing has been held in the case to be decided.

Accordingly, the Commission has taken the following actions:

1. The Western Region will be eliminated effective October 18, 1991.

2. The following states presently included in the Western Region shall be included in the North Central Region effective October 18, 1991: Alaska, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

3. The following states and territories presently included in the Western Region shall be added to the South Central Region effective October 18, 1991: Arizona, California, Hawaii, and Guam.

Dated: June 12, 1991.

Carol Pavilack Getty,

Chairman, U.S. Parole Commission.

[FR Doc. 91-14653 Filed 6-19-91; 8:45 am]

BILLING CODE 4410-01-M

## MERIT SYSTEMS PROTECTION BOARD

### Opportunity To Comment on the 1992 Research Agenda of the Merit Systems Protection Board (MSPB), June 1991

**AGENCY:** Merit Systems Protection Board.

**ACTION:** Notice of opportunity to comment on the 1992 research agenda of the U.S. Merit Systems Protection Board.

**SUMMARY:** The U.S. Merit Systems Protection Board (MSPB) is required by law to conduct special studies of the civil service and other Federal merit systems to determine whether they adhere to the merit principles governing the Federal civil service. MSPB is also required by law to report annually to the President and the Congress on the "significant actions" of the Office of Personnel Management (OPM). Based on this research, MSPB reports to the Congress and the President on whether the public interest in a civil service free of prohibited personnel practices is being adequately protected. MSPB is in the process of determining its 1992 research agenda. This notice invites public comment on personnel management issues to be considered as topics for merit systems studies, and solicits suggestions regarding OPM programs and activities to be included in the annual review and analysis of OPM significant actions.

**DATE:** Comments must be received on or before July 22, 1991.

**ADDRESS:** Comments must be made in writing and sent to the Office of Policy and Evaluation, U.S. Merit Systems Protection Board, 1120 Vermont Avenue NW., 8th Floor, Washington, DC 20419, Attention: Ms. Karen Robinson.

**FOR FURTHER INFORMATION CONTACT:** Ms. Karen Robinson, Research Analyst, Office of Policy and Evaluation, U.S. Merit Systems Protection Board, 1120 Vermont Avenue NW., 8th Floor, Washington, DC 20419, (202) 653-5812.

**SUPPLEMENTARY INFORMATION:** The Civil Service Reform Act of 1978 established a list of statutory merit principles and prohibited personnel practices as standards for personnel management in the Federal Government. MSPB is responsible for protecting the public interest in a civil service administered according to these standards. The Office of Policy and Evaluation has principal responsibility within MSPB for OPM oversight and merit systems studies.

#### (a) What Is a Merit System Study?

The law does not specify criteria for MSPB to use in determining the scope and nature of merit systems studies. In exercising its discretion as to which studies to conduct, MSPB relies on its internal research staff as well as input from a broad range of outside individuals and organizations. In conducting any study, MSPB is also authorized to make such inquiries as may be necessary and, unless otherwise prohibited by law, to have access to personnel records or information from OPM or other agencies as needed.

#### (b) What Is an OPM Significant Action?

The law also does not specify criteria for MSPB to use in determining which actions of OPM are significant for purposes of preparing its report. In exercising its discretion as to which actions of OPM to study, MSPB considers the following:

- (1) Any OPM policy or program which might conflict with the statutory merit principles or contribute to the commission of a prohibited personnel practice;
- (2) The extent to which other major decisions made or actions taken by OPM are in accord with and promote the merit principles; and
- (3) OPM's overall impact on personnel management within the merit systems of the Federal civil service.

#### (c) Public Comment on MSPB's 1992 Research Agenda

MSPB invites any interested person or organization to comment on: Any systemic personnel management issues or practices the examination of which would assist MSPB in determining adherence to the merit principles and the absence of prohibited personnel practices. Individual personnel actions are outside the scope of the research agenda.



Interested persons or organizations are further invited to comment on: which actions of OPM since January 1990 were "significant" for the merit systems, and whether those actions were consistent with merit system principles and free from prohibited personnel practices. Although comments are invited on any action taken by OPM since January 1990, they should be consistent with the criteria described above.

#### (d) Format for Comments

The comments should contain for each topic a short statement of the issue being raised, a brief explanation as to why it should be studied, and a description of the impact of the issue on the Federal service.

#### (e) Acknowledgement of Comments

Due to the nature of this notice (i.e., a request for suggestions), no acknowledgement or response will be provided to those who submit comments.

#### (f) Confidentiality

MSPB will protect the identity of persons submitting comments and the confidentiality of such comments to the extent permitted by law.

Dated: June 14, 1991.

Robert E. Taylor,  
Clerk of the Board.

[FR Doc. 91-14652 Filed 6-19-91; 8:45 am]  
BILLING CODE 7400-1-M

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 91-59]

#### NASA Cleveland Wage Survey Committee Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting change.

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** 56 FR 2024, Notice Number 91-36, May 2, 1991.

**PREVIOUSLY ANNOUNCED DATES, TIMES AND ADDRESS OF MEETING:** June 24, 1991, 1 p.m. to 3:30 p.m.; Conference Room 6004, 400 Maryland Avenue, SW., Washington, DC 20546.

**CHANGES IN THE MEETING:** Date changed to July 9, 1991.

**FOR FURTHER INFORMATION CONTACT:** Deborah Green Glasco, Code NHM, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-3781).

Dated: June 14, 1991.

John W. Gaff,  
Advisory Committee Management Officer,  
National Aeronautics and Space Administration.

[FR Doc. 91-14713 Filed 6-19-91; 8:45 am]  
BILLING CODE 7510-01-M

[Notice 91-58]

#### NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC), Space Station Science and Applications Advisory Subcommittee (SSSAAS); Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee (SSAAC), Space Station Science and Applications Advisory Subcommittee (SSSAAS).

**DATES:** July 22, 1991, through July 24, 1991, 8 a.m. to 10:30 p.m. each day; July 25, 1991, 8 a.m. to 5:30 p.m.; and July 26, 1991, 8:30 a.m. to Noon.

**ADDRESSES:** The Stanley Hotel, Estes Park, CO 80517.

**FOR FURTHER INFORMATION CONTACT:** Dr. Edmond M. Reeves, Code SM, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1570).

**SUPPLEMENTARY INFORMATION:** The Space Station Science and Applications Advisory Subcommittee (SSSAAS) reports to the Space Science and Applications Advisory Committee (SSAAC) and consults with and advises the NASA Office of Space Science and Applications (OSSA) on the new capabilities to be made available by the Space Station program and how these may be most effectively utilized. It also advises the NASA Space Station Freedom Office on how the Space Station program may most effectively support potential science and applications users. The Subcommittee will meet to discuss restructured Space Station accommodations, scientific perspectives, and science operations status. The Subcommittee is chaired by Dr. Robert J. Bayuzick and is composed of 16 members. The meeting will be open to the public up to the seating capacity of the room (approximately 100 people including members of the Subcommittee). It is imperative that the meeting be held on these dates to

accommodate the scheduling priorities of the key participants.

**Type of Meeting:** Open.

#### Agenda

##### Monday, July 22

- 8 a.m.—Orientation and Workshop Overview.
- 8:30 a.m.—Space Station Freedom (SSF) Program and Policy Overview.
- 9 a.m.—The Restructured Station—its Capabilities and Changes: Technical Perspective.
- 10:30 a.m.—The Restructured Station—its Capabilities and Changes: Science Perspective.
- 11:15 a.m.—Attached Pressurized Module Status, Capabilities and Utilization Plans.
- 1 p.m.—Japanese Experiment Module Status, Capabilities and Utilization Plans.
- 1:30 p.m.—Canadian Elements: Status, Capabilities and Utilization Plans.
- 2 p.m.—Status of OSSA Utilization Plans.
- 3 p.m.—Office of Aeronautics, Exploration and Technology Utilization Plans.
- 3:15 p.m.—Office of Commercial Programs Utilization Plans.
- 3:30 p.m.—Data Management and Communication Systems.
- 5:30 p.m.—Break.
- 7 p.m.—Reconvene: Data Systems Utilization.
- 8 p.m.—Discussion and Preparation of Draft SSSAAS Recommendations.
- 10:30 p.m.—Adjourn.

##### Tuesday, July 23

- 8 a.m.—OSSA Strategic Plan.
- 8:30 a.m.—Early Utilization—Microgravity Transition Science.
- 9:30 a.m.—Early Utilization—Life Sciences.
- 10:15 a.m.—Utilization Flights/Assembly Flights: Capabilities and Plans.
- 10:45 a.m.—Space Station Freedom Capabilities for Untended Operations.
- Noon—Break.
- 7 p.m.—Reconvene: Splinter Group Discussions—Payload Descriptions, Science Strategies, Opportunities and Limitations.
- 10:30 p.m.—Adjourn.

##### Wednesday, July 24

- 8 a.m.—Life Sciences: Payloads and Science Programs.
- 9 a.m.—Material Sciences: Payloads and Science Programs.
- 10 a.m.—Mature Science Operations: Payload Operations Integration Center/Integrated Science Operations Center Functions and Relationships.
- 10:45 a.m.—European Space Agency



## (ESA) Telescience Workshop Report.

11:15 a.m.—Operations Discussion.

Noon—Break.

7 p.m.—Reconvene: Splinter Group Sessions—Mature Operations and Utilization.

10:30 p.m.—Adjourn.

Thursday, July 25

8 a.m.—Multilateral Science Working Group Report.

8:15 a.m.—Utilization Technology Working Group Report/Steering Committee.

8:30 a.m.—Responses to SSSAAS Recommendations.

10 a.m.—Report from the ESA Columbus VII Symposium.

10:15 a.m.—OSSA Participation in Astronaut Selection.

10:30 a.m.—Unresolved Space Station Accommodation Issues.

1 p.m.—Preparation of Splinter Group Reports.

2 p.m.—Preparation of Recommendations and Findings.

5:30 p.m.—Adjourn.

Friday, July 26

8:30 a.m.—Discussion of Workshop Findings and Recommendations.

11:45 a.m.—Committee Discussion.

Noon—Adjourn.

Dated: June 14, 1991.

John W. Gaff,

Advisory Committee Management Officer,  
National Aeronautics and Space Administration.

[FR Doc. 91-14712 Filed 6-19-91; 8:45 am]

BILLING CODE 7510-01-M

**NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE****White House Conference on Library and Information Services**

Authority: The White House Conference on Library and Information Services (Conference) is authorized by Public Law 100-382.

Purpose: The purpose of the Conference shall be to develop recommendations for the further improvement of the library and information services of the Nation and their use by the public.

Dates: The Conference opens on July 10, 1991 and continues through July 13, 1991.

Place: Washington, DC, Convention Center, 900 9th Street NW., Washington, DC 20001.

Information: To request further information about the Conference phone 202/254-5100 or 800/942-5472. (Note: A registration fee is required for entrance to the Conference.)

Dated: June 14, 1991.

Jean M. Curtis,

Executive Director, White House Conference on Library and Information Services.

[FR Doc. 91-14684 Filed 6-19-91; 8:45 am]

BILLING CODE 7527-01-M

**NATIONAL EDUCATION GOALS PANEL****Meeting**

**AGENCY:** The National Education Goals Panel.

**ACTION:** Notice of meeting.

**SUMMARY:** The National Education Goals Panel was established by a Joint Statement between the President and the Nation's governors dated July 31, 1990. The panel will determine how to measure and monitor progress toward achieving the national education goals and to report to the nation on the progress toward the goals. Members of the National Education Goals Panel are six governors appointed by the Chairman of the National Governor's Association, four senior Administration officials, and four Congressional leaders. Governor Roy Romer of Colorado is the initial chairman.

**TENTATIVE AGENDA ITEMS:** The tentative agenda for the meeting includes discussion of indicators to include in the September 1991 report card to the Nation.

**DATE:** The seventh meeting is scheduled for Monday, July 1, 1991. Time TBA.

**ADDRESS:** Location TBA.

**FOR FURTHER INFORMATION CONTACT:** Pat Forgione at the National Education Goals Panel office to indicate attendance or for further information on specific time and location. The phone number is (202) 632-0952.

Dated: June 14, 1991.

Roger B. Porter,

Assistant to the President for Economic and Domestic Policy.

[FR Doc. 91-14785 Filed 6-19-91; 8:45 am]

BILLING CODE 3127-01-M

**Interim Council on Standards and Testing; Meeting**

**AGENCY:** The National Education Goals Panel.

**ACTION:** Notice of meeting.

**SUMMARY:** The National Education Goals Panel was established by a Joint Statement between the President and the Nation's governors dated July 31, 1990. The panel will determine how to measure and monitor progress toward

achieving the national education goals and to report to the nation on the progress toward the goals.

The Interim Council on Standards and Testing is composed of 28 members, including members of the panel, members of Congress, Federal officials, and members of the education and labor communities. The council will report to the panel by December 31, 1991 on issues related to developing national standards and a national assessment system for education. Governor Roy Romer and Governor Carroll Campbell serve as co-chairmen.

**TENTATIVE AGENDA ITEMS:** The tentative agenda for the meeting includes discussion of current standard setting activities in five core academic subjects.

**DATE:** The first meeting is scheduled for Monday, June 24, 1991. Time TBA.

**ADDRESS:** Grand Hyatt, 1000 H Street NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** David Stevenson at the National Education Goals Panel office. The phone number is (202) 632-0952.

Dated: June 14, 1991.

Roger B. Porter,

Assistant to the President for Economic and Domestic Policy.

[FR Doc. 91-14784 Filed 6-19-91; 8:45 am]

BILLING CODE 3127-01-M

**NUCLEAR REGULATORY COMMISSION****Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW); Notice of Proposed Meetings**

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the ACRS full Committee, of the ACNW, and the ACNW Working Groups the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published May 23, 1991 (56 FR 23725). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meeting. It is expected that sessions of ACRS full Committee and ACNW meetings designated by an asterisk (\*) will be closed in whole or in part to the public. ACRS full Committee and ACNW meetings begin at 8:30 a.m. and ACRS



Subcommittee and ACNW Working Group meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during ACRS full Committee and ACNW meetings, and when ACRS Subcommittee and ACNW Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the July 1991 ACRS and ACNW full Committee meetings can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committees (telephone: 301/492-4600 (recording) or 301/492-7288, Attn: Barbara Jo White) between 7:30 a.m. and 4:15 p.m., Eastern Time.

#### ACRS Subcommittee Meetings

*Extreme External Phenomena*, July 10, 1991, Bethesda, MD. The Subcommittee will discuss the NUMARC/EPRI Fire Vulnerabilities Evaluation (FIVE) Methodology for the IPEEE.

*AC/DC Power Systems Reliability*, July 30, 1991, Bethesda, MD. The Subcommittee will discuss the implementation status of the station blackout rule for current operating plants.

*AC/DC Power Systems Reliability*, July 31, 1991, Bethesda, MD. The Subcommittee will discuss adoption of the N+2 concept for electrical systems design for future nuclear plants (GE, W, CE and EPRI).

*Advanced Reactor Designs*, August 6, 1991, Bethesda, MD. The Subcommittee will review the modular high-temperature gas cooled reactor (MHTGR) and the power reactor innovatively small (PRISM) designs sponsored by DOE.

*Extreme External Phenomena*, August 7, 1991, Bethesda, MD. The Subcommittee will discuss the results of the Diablo Canyon Long-Term Seismic Program.

*Instrumentation and Control Systems*, August 29, 1991, Bethesda, MD. The Subcommittee will discuss EPRI's reactor set-point methodology for future designs.

*Advanced Pressurized Water Reactors*, September 4, 1991, Bethesda, MD. The Subcommittee will continue its review of the CE System 80+ Standard Plant with a detailed look at the NUPLEX 80+ Advanced Instrumentation and Control System design and the Probabilistic Risk Assessment as applied to this new design.

*Improved Light Water Reactors*, September 17, 1991, Bethesda, MD. The

Subcommittee will review draft safety evaluation reports corresponding to chapters 1 and 10 of the EPRI's Requirements Document for Evolutionary Designs.

*Advanced Boiling Water Reactors*, September 18, 1991, Bethesda, MD. The Subcommittee will review draft safety evaluation reports corresponding to chapters 1, 2, 3, 4, 5, 6 and 17 of the GE/Standard Safety Analysis Report.

*Thermal Hydraulic Phenomena*, Date to be determined (August, tentative), Bethesda, MD. The Subcommittee will continue its review of the NRC staff program to address the issue of interfacing systems LOCAs.

*Joint Thermal Hydraulic Phenomena and Core Performance*, Date to be determined, Bethesda, MD. The Subcommittee will continue its review of the issues pertaining to BWR core power stability.

*Thermal Hydraulic Phenomena*, Date to be determined, Bethesda, MD. The Subcommittee will review the status of the application of the Code Scaling, Applicability, and Uncertainty (CSAU) Evaluation Methodology to a small-break LOCA calculation for a B&W plant.

*Severe Accidents*, Date to be determined, Bethesda, MD. The Subcommittee will discuss elements of the Severe Accident Research Program.

*Regulatory Activities*, Date to be determined, Bethesda, MD. The Subcommittee will review the proposed final resolution of Generic Safety Issue-113, "Dynamic Qualification Testing of Large Bore Hydraulic Snubbers."

*Occupational and Environmental Protection Systems*, Date to be determined, Bethesda, MD. The Subcommittee will review the regulatory guides related to the implementation of the revised 10 CFR part 20 rule.

*Systematic Assessment of Experience*, Date to be determined, Bethesda, MD. The Subcommittee will discuss the safety significance of the lessons learned from the operating experience with solenoid-operated valves (SOVs). Also, it will discuss the comments received from the Nuclear Utility Group on Equipment Qualification regarding the AEOD's findings on SOV problems at U.S. nuclear powerplants.

*Thermal Hydraulic Phenomena*, Date to be determined, Los Alamos, NM. The Subcommittee will review the documentation associated with the TRAC-PF1/MOD2 code version.

#### ACRS Full Committee Meetings

*375th ACRS Meeting*, July 11-13, 1991, Bethesda, MD. Items are tentatively scheduled.

*\*A. Reactor Operating Experience (Open/Closed)*—Briefing by and discussion with representatives of the NRC staff regarding recent nuclear powerplant incidents and events, including a loss of all off-site power event at the Vermont Yankee nuclear station and a generator fire at the Maine Yankee nuclear plant.

*\*B. Fire Vulnerabilities Evaluation (Open/Closed)*—Briefing by and discussion with representatives of NUMARC/EPRI and the NRC staff regarding the NUMARC/EPRI fire vulnerabilities evaluation methodology (FIVE) and the draft NRC position on this matter.

*C. Meeting With Director, NRC Office for Analysis and Evaluation of Operating Experience (Open)*—Meeting with the Director, AEOD, to discuss items of mutual interest including the status and general use of the NRC performance indicator program, and activities of the NRC Committee to Review Generic Requirements.

*\*D. General Electric SBWR (Open/Closed)*—Briefing by and discussion with representatives of the GE Company and the NRC staff regarding design features of the Simplified Boiling Water Reactor (SBWR) passive nuclear powerplant.

*\*E. Fitness for Duty (Open/Closed)*—Briefing by and discussion with representatives of the NRC staff regarding experience associated with current NRC fitness for duty regulations including incidents at nuclear power stations that have involved fitness for duty considerations. Representatives of the nuclear industry will participate, as appropriate.

*F. Review of Evolutionary and Advanced Nuclear Power Plant Designs (Open)*—Briefing by and discussion with representatives of the NRC staff and the Department of Energy regarding anticipated schedules for review and evaluation of evolutionary and advanced nuclear power plant designs. Also, discussion among committee members of key technical issues in need of early resolution.

*G. NRC Safety Research Program (Open)*—Discussion among committee members regarding the scope and nature of proposed ACRS report to the Commission on the NRC Safety Research Program and budget.

*H. ACRS Subcommittee Activities (Open)*—Reports of and discussion regarding the status of assigned ACRS Subcommittee activities, including the May 30, 1991 Advanced BWRs Subcommittee meeting on the GE/ABWR design, and June 18-19, 1991



Regional Programs Subcommittee meeting, and other related activities of the Committee members.

**I. Use of Probabilistic Risk Assessment (Open)**—Discussion of a proposed committee report to the NRC regarding use of probabilistic risk assessment in the regulatory process.

**J. Future ACRS Activities (Open)**—Discussion of anticipated Subcommittee activities and items proposed for full consideration by the full Committee.

**K. Improved Guidance for Performing Regulatory Analyses (Open)**—Briefing by and discussion with representatives of the NRC staff regarding SECY-91-114, Proposed Actions to Improve Guidance for Performing Regulatory Analyses.

**L. Operator Requalification (Open)**—Briefing by and discussion with representatives of the NRC staff regarding the program for requalification of operators including the impact of using symptom-based emergency procedures on the requalification of nuclear power plant operators.

**M. Preparation of ACRS Reports (Open)**—Discussion of proposed Committee reports to NRC on proposed resolution of Generic Safety Issue 130, Essential Service Water System Failures at Multi-Unit Sites, risks associated with low-power and shutdown operations at nuclear power plants, and the proposed schedule for NRC/ACRS review of Evolutionary and advanced nuclear power plant designs including the proposed EPRI Requirements for Advanced LWRs.

**N. Miscellaneous (Open)**—Complete discussion of items that were not completed during previous ACRS meetings as time and availability of information permit.

**376th ACRS Meeting**, August 8-10, 1991—Agenda to be announced.

**377th ACRS Meeting**, September 5-7, 1991—Agenda to be announced.

#### ACNW Full Committee and Working Group Meetings

**33rd ACNW Meeting**, July 25-26, 1991, Bethesda, MD. Items are tentatively scheduled.

**A.** Meet with the NRC Commissioners to discuss items of mutual interest.

**B.** Discuss a recent trip to and meeting at the Center for Nuclear Waste Regulatory Analyses.

**C.** Discuss the use of expert judgment in conducting performance assessments in support of licensing of high-level and low-level waste repositories. Prepare a report for the Commission on the proper role of expert judgment in performance assessment.

**D.** Hear a briefing by the NRC/RES staff on proposed revisions to the NRC

regulations on transportation of radioactive materials that are being revised to be consistent with the IAEA recommended guidance.

**E.** Discuss anticipated and proposed Committee activities, future meeting agenda, administrative, and organizational matters, as appropriate. Also, discuss matters and specific issues that were not completed during previous meetings as time and availability of information permit.

**34th ACNW Meeting**, August 28-29, 1991—Agenda to be announced.

**35th ACNW Meeting**, September 25-27, 1991—Agenda to be announced.

**36th ACNW Meeting**, October 23-24, 1991—Agenda to be announced.

**37th ACNW Meeting**, November 20-21, 1991—Agenda to be announced.

**38th ACNW Meeting**, December 18-19, 1991—Agenda to be announced.

**ACNW Working Group on Preparation of Regulatory Guides for Implementing Revisions to 10 CFR part 20**, August 20-22, 1991, Bethesda, MD. The Working Group will review nine regulatory guides related to the implementation of the revised 10 CFR Part 20, which assess the impacts of handling, storage and treatment of nuclear waste materials, as well as other activities related to nuclear energy.

**ACNW Working Group on NRC staff Computer Modeling and Performance Assessment Capabilities in High-Level and Low-Level Waste**, September 11-13, 1991. The Working Group will review the NRC staff's capabilities to make independent evaluations of licensee proposals with respect to the performance of low-level and high-level radioactive waste disposal facilities. Emphasis will be placed on computer capabilities involving modeling, documentation, verification and validation.

**ACNW Working Group on Geologic Dating**, October 22, 1991, Bethesda, MD. The Working Group will review the problems and limitations with various Quaternary dating methods to be used in the assessment of volcanic features and materials for the site characterization of a high-level waste repository.

**ACNW Working Group on Residual Contamination Clean-up Criteria**, October 25, 1991, Bethesda, MD. The Working Group will review the clean-up criteria for unrestricted use of contaminated sites that have been, or were at one time, under AEC or NRC license. The NRC staff is in the process of determining acceptable levels for uranium- and thorium- contaminated

soils and structures to be released for unrestricted use.

**ACNW Working Group on the Impact of Long-Range Climate Change in the Area of the Southern Basin and Range**, November 19, 1991, Bethesda, MD. The Working Group will review the potential long-range climate changes and their impact on performance assessments of a proposed high-level repository.

**ACNW Working Group on Post-Closure Monitoring**, November 22, 1991, Bethesda, MD. The Working Group will review the potential problems and possible limitations associated with the post-closure monitoring of a proposed high-level waste repository. The potential utilization of non-invasive methods for the attainment of such a capability as well as the duration of such monitoring, and the significance and impact of results will also be considered.

**ACNW Working Group on Inadvertent Human Intrusion Related to the Presence of Natural Resources at a High-Level Waste Site**, December 17, 1991, Bethesda, MD. The Working Group will review the methodologies for assessment of the potential for natural resources at a proposed high-level waste site.

Dated: June 14, 1991.

John C. Hoyle,

Advisory Committee Management Officer.

FR Doc. 91-14649 Filed 6-19-91; 8:45 am]

BILLING CODE 7590-01-M

#### Solicitation of Public Comments on Generic Issue 23, "Reactor Coolant Pump Seal Failure", Extension of Public Comment Period

The U.S. Nuclear Regulatory Commission (NRC) is announcing an extension of the public comment period regarding Generic Issue 23, "Reactor Coolant Pump Seal Failure." The public comment period was to expire on July 31, 1991. (See *Federal Register* Notice dated April 19, 1991, Page 16130). The NRC has decided to extend the public comment period to September 30, 1991, due to requests for additional time to prepare responses.

Dated at Rockville, MD this 11 day of June, 1991.

For the Nuclear Regulatory Commission.

Warren Minners,

Director, Division of Safety Issue Resolution, Office of Nuclear Regulatory Research.

[FR Doc. 91-14732 Filed 6-19-91; 8:45 am]

BILLING CODE 7590-01-M



[Docket No. 50-213]

**Connecticut Yankee Atomic Power Co.; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-61 issued to Connecticut Yankee Atomic Power Company (the licensee, CYAPCO) for operation of the Haddam Neck Plant located in Middlesex County, Connecticut.

The proposed amendment would replace footnotes (a) and (b) to table 3.3-2, items 3.a.1, 3.a.2, and 6.a with footnotes (c) and (d), to allow the feedwater isolation system to be defeated during surveillance testing and the Limiting Condition for Operation would only be applicable when the feedwater control system is in the automatic mode.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the request for amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee has provided the following analysis:

*1. Involve a significant increase in the probability or consequences of an accident previously evaluated.*

Most of the proposed changes consist of clarifications or editorial changes. The one significant change (Note "c" for Item 6.a of Table 3.3-2) specifies that the (steam generator (SG)) overfill protection system is required to be operable only when feedwater control is in the automatic mode. This is a relaxation from the recently issued Technical Specification that requires the SG overfill protection system to be operable at all times when the reactor is above 10% power.

As discussed in CYAPCO's February 28, 1991 license amendment request, the design basis analysis does not take credit for the automatic feedwater control system. Therefore, no design basis accidents are affected by this change. There is no impact on the probability of occurrence or the

consequences of any design basis events. No safety systems are adversely affected by these changes.

It was CYAPCO's intention to add the feedwater isolation function to the Tables for ESFAS operability and surveillance requirements to enhance the reliability of the SG overfill protection system when the feedwater control system is in the automatic mode. The changes proposed herein do not detract from that original intention.

*2. Create the possibility of a new or different kind of accident from any previously evaluated.*

The changes proposed herein do not alter the operation of the plant such that there is the potential for an unanalyzed accident. Without the proposed changes, plant operation above 10% power would be eventually prohibited. With the changes as proposed, plant operation can continue as it was prior to the issuance of License Amendment No. 136.

*3. Involve a significant reduction in margin of safety.*

Since the proposed changes do not affect the consequences of any accident previously analyzed, there is no reduction in any margin of safety. The proposed changes do not have any adverse impact on the protection boundaries. As stated previously, the feedwater isolation function is not credited in any design basis analysis.

Therefore, based on the above considerations, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By July 22, 1991, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and

any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555 and at the Local Public Document Room located at the Russell Library, 123 Broad Street, Middletown, Connecticut 06457. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of



the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendment involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If a final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received.

Should the commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-8700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: (petitioner's name and telephone number), (date petition was mailed), (plant name), and (publication date and page number of this *Federal Register* notice). A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Garfield, Esq., Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06457, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated June 14, 1991, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at the Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Dated at Rockville, MD, this 17th day of June 1991.

For the Nuclear Regulatory Commission,  
Alan B. Wang,  
Project Manager, Project Directorate I-4,  
Division of Reactor Projects-I/II, Office of  
Nuclear Reactor Regulation.

[FR Doc. 91-14731 Filed 6-19-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322]

# **Long Island Lighting Co.; Issuance of Amendment to Facility Operating License and Final Determination of No Significant Hazards Consideration**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Facility Operating License No. NPF-82, issued to Long Island Lighting Company (LILCO or the licensee), which revised the Technical Specifications for operation of the Shoreham Nuclear Power Station, Unit 1 (the facility) located in Suffolk County, New York. This license amendment will become effective ten (10) working days after the date of publication in the *Federal Register* of the Notice of Issuance of this amendment. If during this period a motion for a stay is filed with the U.S. Court of Appeals, the date when this amendment becomes effective will automatically be extended an additional ten (10) working days to provide the court with time to review the matter.

The amendment removes the licensee's authority to operate the Shoreham facility. The amendment modifies License No. NPF-82 from a full-power operating license to a possession-only license. The amendment is published herewith, without Appendices.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with this action was published in the *Federal Register* on August 21, 1990 (55 FR 34098). A request for a hearing was filed on September 20, 1990, by the Shoreham-Wading River Central School District and the Scientists and Engineers for Secure Energy, Inc. Additionally, counsel for both organizations filed, on October 10, 1990 and February 11, 1991, supplemental comments on the staff's proposed no significant hazards consideration determination.

Further the Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the



amendment involves no significant hazards consideration, and that the facility can continue to be maintained by the licensee without endangering the health and safety of the public. The basis for this determination is contained in the Safety Evaluation related to this action.

Additionally, the Commission has determined that this amendment satisfies the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for this amendment.

For further details with respect to the action see (1) the application for amendment dated January 5, 1990, and supplemented by letter dated August 30, 1990, October 30, 1990, February 26, 1991, March 11, 1991, and March 26, 1991. (These supplemental letters did not change the scope of the initial application request and did not affect the staff's initial no significant hazards determination), (2) Amendment No. 7 to Facility Operating License No. NPF-82 (including Appendix A Technical Specification, and Appendix B Environmental Protection Plan), (3) the Commission's related Safety Evaluation, and (4) Commission Memorandum and Order, CLI-91-08, dated June 12, 1991. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, at the Shoreham-Wading River Public Library, Route 25A, Shoreham, New York, 11786-9697. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Director, Division of Advanced Reactors and Special Projects.

Dated at Rockville, Maryland this 14th day of June 1991.

For the Nuclear Regulatory Commission,  
Seymour H. Weiss,  
Director, Non-Power Reactors,  
Decommissioning and Environmental Project  
Directorate, Division of Advanced Reactors  
and Special Projects, Office of Nuclear  
Reactor Regulation.

**Long Island Lighting Co.; Shoreham  
Nuclear Power Station, Unit 1  
Amendment to Possession Only License;  
Docket No. 50-322**

*Amendment No. 7, License No. NPF-82*

1. The U.S. Nuclear Regulatory Commission (the Commission) has found that:

A. The application for amendment by Long Island Lighting Company (the

licensee), dated January 5, 1990 and supplemented on August 30, 1990, October 30, 1990, February 26, 1991, March 11, 1991, and March 26, 1991, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I;

B. The facility will be maintained in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission;

C. There is reasonable assurance (i) that the activities authorized by this amendment can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations;

D. The issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public; and

E. The issuance of this amendment is in accordance with 10 CFR part 51 of the Commission's regulations and all applicable requirements have been satisfied.

2. Accordingly, Facility Operating License No. NPF-82 is hereby amended in its entirety to read as follows:

A. The license applies to the Shoreham Nuclear Power Station, Unit 1, a boiling water nuclear reactor and associated equipment, owned by the licensee. The facility is located in Suffolk County, New York, and is described in the licensee's Defueled Safety Analysis Report (DSAR), which includes, by reference, the appropriate sections of the Updated Safety Analysis Report (USAR), as supplemented and amended, and the licensee's Environmental Report, as supplemented and amended.

B. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses the Long Island Lighting Company (LILCO, the licensee):

(1) Pursuant to section 103 of the Act and 10 CFR part 50, to possess, use, but not operate the facility at the designated location in Suffolk County, New York, in accordance with the procedures and limitations set forth in this license;

(2) Pursuant to the Act and 10 CFR part 70, to receive, possess, and use at any time special nuclear material as reactor fuel, in accordance with the limitations for storage and amounts required for reactor operation, as described in the Updated Safety Analysis Report, as supplemented and amended;

(3) Pursuant to the Act and 10 CFR parts 30, 40, and 70, to receive, possess,

and use at any time any byproduct, source and special nuclear material as sealed neutron sources for reactor startup, sealed neutron sources for reactor instrumentation and radiation monitoring equipment calibration, and as fission detectors in amounts as required;

(4) Pursuant to the Act and 10 CFR part 30, 40, and 70, to receive, possess, and use in amounts as required any byproduct, source or special nuclear material without restriction to chemical or physical form, for sample analysis or instrument calibration or associated with radioactive apparatus or components; and

(5) Pursuant to the Act and 10 CFR parts 30, 40, and 70, to possess, but not separate, such byproduct and special nuclear materials as may be produced by the operation of the facility.

C. This license shall be deemed to contain and is subject to the conditions specified in the Commission's regulations set forth in 10 CFR Chapter I and is subject to all applicable provisions of the Act and to the rules, regulations, and orders of the Commission now or hereafter in effect and is subject to the additional conditions specified or incorporated below:

**(1) Maximum Power Level.**

The licensee is not authorized to operate the facility at any core power level.

**(2) Technical Specifications and Environmental Protection Plan.**

The Technical Specifications contained in Appendix A and the Environmental Protection Plan contained in Appendix B, as revised through Amendment No. 7 are hereby incorporated into this license. Long Island Lighting Company shall maintain the facility in accordance with the Technical Specifications and the Environmental Protection Plan.

**(3) Requirement to Obtain NRC Approval to Place Fuel in the Reactor Vessel.**

The licensee shall not place any fuel assemblies in the reactor vessel without the prior approval of the NRC staff.

D. The licensee shall implement and maintain in effect all provisions of the approved fire protection program as described in the Fire Hazards Analysis Report and the Defueled Safety Analysis Report for the facility and as approved in the SER dated April 1981 and Supplements 2 dated February 1982 and 9 dated December 1985, subject to the following provision:

The licensee may make changes to the approved fire protection program



without prior approval of the Commission only if these changes would not adversely affect the ability to maintain the fuel in the Spent Fuel Pool in a safe condition in the event of a fire.

E. The licensee shall fully implement and maintain in effect all provisions of the Commission-approved physical security, guard training and qualification, and safeguards contingency plans including amendments made pursuant to provisions of the Miscellaneous Amendments and Search Requirements revisions to CFR 73.55 (51 FR 27817 and 27822) and to the authority of 10 CFR 50.90 and 10 CFR 50.54(p). The plans, which contain Safeguards Information protected under 10 CFR 73.21, are entitled: "Shoreham Nuclear Power Station Security Plan for Fuel Storage in the Spent Fuel Pool," with revisions submitted through April 5, 1990; the "Shoreham Nuclear Power Station Guard Training and Qualification Plan," with revisions submitted through December 14, 1983; and "Shoreham Nuclear Power Station Safeguards Contingency Plan," with revisions submitted through May 13, 1988. Changes made in accordance with 10 CFR 73.55 shall be implemented in accordance with the schedule set forth therein.

F. The licensee shall have and maintain financial protection of such type and in such amounts as the Commission shall require in accordance with section 170 of the Atomic Energy Act of 1954, as amended, to cover public liability claims.

G. This license shall expire at midnight on April 13, 2013.

3. This license amendment will become effective ten (10) working days after the date of publication in the *Federal Register* of the Notice of Issuance of this amendment. If during this period a motion for a stay is filed with the U.S. Court of Appeals, the date when this amendment becomes effective will automatically be extended an additional ten (10) working days to provide the court with time to review the matter.

Dated of Issuance: June 14, 1991.

For the Nuclear Regulatory Commission.

**Dennis M. Crutchfield,**

*Director, Division of Advanced Reactors and Special Projects, Office of Nuclear Reactor Regulation.*

[FR Doc. 91-14730 Filed 6-19-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-440-A and 50-346-A; ASLBP No. 91-644-01-A]

**Ohio Edison Co., Cleveland Electric Illuminating Co. and Toledo Edison Co.; Establishment of Atomic Safety and Licensing Board**

Pursuant to delegation by the Commission dated December 29, 1972, published in the *Federal Register*, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Ohio Edison Co.  
Perry Nuclear Power Plant, Unit 1  
Facility Operating License No. NPF-58  
The Cleveland Electric Illuminating Co.  
The Toledo Edison Co.  
Perry Nuclear Power Plant, Unit 1  
Facility Operating License No. NPF-58  
Davis-Besse Nuclear Power Station, Unit 1  
Facility Operating License No. NPF-3  
(Suspension of Antitrust Conditions)

This Board is being established pursuant to a notice published by the Commission on May 1, 1991 in the *Federal Register* (56 FR 20057) entitled, "Notice of Denial of Applications for Amendments to Facility Operating Licenses and Opportunity for Hearing."

The purpose of the licensees' amendment requests was to suspend the antitrust conditions in the two operating licenses as they apply to the respective licensees. The NRC staff has advised the licensees that the proposed amendments are denied, based on the staff's evaluation of the arguments made in support of the applications, the extensive public comments received on the proposed amendments, and the views expressed by the Department of Justice. The licensees were notified of the Commission's denial of the proposed amendments in a letter dated April 24, 1991. However, the licensees have been advised that they may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

The Board is comprised of the following administrative judges:

Marshall E. Miller, Chairman, 1920 South Creek Boulevard, Spruce Creek Fly-In, Daytona Beach, FL 32124  
Charles Bechhoefer, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

John H. Frye, III, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

All correspondence, documents and other materials shall be filed with the judges in accordance with 10 CFR 2.701.

Issued at Bethesda, MD, this 13th day of June, 1991.

**B. Paul Cotter, Jr.,**

*Chief Administrative Judge Atomic Safety and Licensing Board Panel.*

[FR Doc. 91-14733 Filed 6-19-91; 8:45 am]

BILLING CODE 7590-01-M

**RESOLUTION TRUST CORPORATION**

**Statement of Policy Regarding the Payment of State and Local Property Taxes**

**AGENCY:** Resolution Trust Corporation.

**ACTION:** Policy statement.

**SUMMARY:** After considering (1) the powers granted to it under the Constitution and Federal law, (2) its obligation to maximize recoveries from the disposition of financial institutions and their assets, and (3) the potential effect of its actions upon state and municipal tax schemes, the Resolution Trust Corporation (the "Corporation") has issued the following policy statement to provide guidance as to how it will administer its statutory responsibilities in this area.

**DATES:** This policy statement is effective June 4, 1991.

**FOR FURTHER INFORMATION CONTACT:** David R. Wiley, Senior Asset Specialist, RTC, (202) 416-7136, Robert I. Dodge, Assistant Director for Real Estate Management, RTC, (202) 417-7475, David N. Wall, Senior Counsel, Legal Division, (202) 736-0115, or Camille E. Evans, Senior Attorney, Legal Division, (202) 416-7028.

**SUPPLEMENTARY INFORMATION:**

**A. Scope and Applicability**

This policy statement generally applies to the Corporation when it is liquidating assets in its corporate and receivership capacities. The policy statement generally does not apply when the Corporation is acting (1) as conservator; (2) with respect to special asset pools covered by assistance transactions where the Corporation does not retain ownership or (3) with respect to a subsidiary of a receivership.



## B. Taxes

### *Payment of Taxes*

The Corporation will pay its proper tax obligations when they come due. Furthermore, the Corporation will pay claims for delinquencies as promptly as is consistent with sound business practice and the orderly administration of the institution's affairs. The Corporation may decline to pay property tax claims in situations where abandonment of its interest in the property is appropriate.

### *Owned Real Property*

Owned real property of the Corporation is subject to state and local real property taxes, if those taxes are assessed according to the property's value. The Corporation is immune from real property taxes assessed on other bases.

### *Secured Interests in Real Property*

Real property which is subject to a security or lien interest is subject to *ad valorem* taxes and taxes assessed on other bases.

### *Personal Property*

The Corporation is immune from all forms of personal property taxation on owned personal property.

### *Other Related Taxes*

The Corporation is immune from taxes other than *ad valorem* real property taxes. Taxes on sales, transfers, or other dispositions of Corporation property are generally in the nature of excise taxes which are levied on the transaction and not on the property (although the calculation of the amount of tax may be based on the property's sale price); the Corporation is immune from such taxes.

## C. Interest and Penalties

### *Interest*

The Corporation will pay claims for interest on delinquent taxes properly owed at the rate provided under state law. The Corporation will generally follow a state's own characterization as to whether a delinquency charge constitutes a penalty, but will reserve its right to challenge any charge (or portion thereof) called interest that is demonstrably a penalty.

### *Penalties*

The Corporation is not liable for any amounts in the nature of fines or penalties. The Corporation will not pay, nor recognize liens for, such amounts. The Corporation will not pay attorneys' fees or other similar costs that may be imposed under state law in connection with the resolution of tax disputes.

## D. Tax Liens

### *General Principles*

If any property taxes (including interest) on Corporation owned property are secured by a valid lien (in effect before the property became owned by the Corporation), the Corporation will pay those claims. With respect to property not owned by the Corporation, but in which the Corporation has a lien interest, and property taxes (including interest) secured by a valid lien with priority over the Corporation's lien interest will be paid. However, if abandonment of its interest in the property is appropriate, the Corporation may elect not to pay such claims.

### *Foreclosure*

No property of the Corporation is subject to levy, attachment, garnishment, foreclosure, or sales without the Corporation's consent. Furthermore, a lien for taxes and interest may attach, but the Corporation will not permit a lien or security interest held by it to be eliminated by foreclosure without the Corporation's consent.

### *Sales of Tax Liens*

In cases in which a tax lien has been sold to a private party under state law, if (1) the tax lien has priority over the Corporation's lien, and (2) the Corporation desires to eliminate the tax purchaser's interest, the Corporation will pay the amount required by state law to satisfy such interest (other than any fees or penalties specifically imposed to redeem such interest). If the tax lien does not have priority, the Corporation will take whatever action is necessary to ensure that its interest is satisfied first.

### *E. Challenges to Assessments*

The Corporation is only liable for state and local taxes which are based on the value of the property during the period for which the tax is imposed, notwithstanding the failure of any person, including prior record owners, to challenge an assessment under the procedures available under state law. In the exercise of its business judgment, the Corporation may challenge assessments which do not conform with the statutory provisions, and during the challenge will generally pay tax claims based on the assessment level deemed appropriate. The Corporation will generally limit challenges to the current and immediately preceding taxable years and to the pursuit of previously filed tax protests. However, the Corporation may, in the exercise of its business judgment, challenge any prior

taxes and assessments provided that (1) the Corporation's records (including appraisals, offers or bids received for the purchase of the property, etc.) indicate that the assessed value is clearly excessive, (2) a successful challenge will result in a substantial savings to the Corporation, (3) the challenge will not unduly the sale of the property, and (4) there is a reasonable likelihood of a successful challenge.

## F. Dispute and Notification Procedures

### *Disputes*

The Corporation will attempt to advise taxing authorities of its statutory rights and resolve all tax disputes as taxes become due. In order to dispose of property subject to disputed tax claims, the Corporation may, as business judgment dictates, enter into agreements with taxing authorities, title companies, or prospective purchasers which provide for the disputed amounts to be held in escrow. When the closing of a transaction is threatened because of disputed tax amounts, the Corporation may, as business judgment dictates, elect to pay the disputed tax claims under protest. In all such cases the Corporation shall reserve its legal rights to a refund of such disputed amounts and may pursue, through litigation if necessary, a reimbursement of the disputed amounts and any attendant costs, and interest.

### *Notification*

The Corporation will attempt to notify state and local taxing authorities of the existence of an interest in property which the Corporation believes to be within the authority's jurisdiction.

## G. Subsidiaries and Conservatorships

For the present, the Corporation has determined not to assert Federal tax immunity on behalf of state-chartered corporations, the stock of which is wholly or partially owned by the Corporation acting in any of its capacities. Additionally, for the present, the Corporation will not assert Federal tax immunity for conservatorships or special asset pools covered by assistance transactions where the Corporation does not retain ownership. However, a conservatorship of a newly-formed institution may not be liable for obligations not specifically assumed from a receiver (as in a "pass-through receivership"). In this situation, the *de novo* institution may not be liable for any penalties assessed prior to the "pass-through receivership," but would be liable for any penalties assessed after the establishment of the *de novo* institution. Finally, when acting in these



capacities, current and prior assessments may be challenged to the extent permitted by state law.

By order of the Board of Directors.

Dated at Washington, DC, this 4th day of June 1991.

William J. Tricarico,

Assistance Executive Secretary.

[FR Doc. 91-14688 Filed 6-19-91; 8:45 am]

BILLING CODE 6714-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-29308; File No. SR-NYSE-91-21]

### Self-Regulatory Organizations; Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Rule 80A (Limitations on Trading During Significant Market Declines)

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 10, 1991, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change seeks to make permanent the provisions of rule 80A regarding stabilization procedures as they apply to index arbitrage orders in component stocks of the S&P 500 Stock Price Index when the Dow Jones Industrial Average advances or declines by 50 points from the previous day's closing value.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections A, B, and C below.

#### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### (a) Purpose

In recent years, the securities markets have experienced unprecedented volatility. The Exchange and other market centers have been concerned that sophisticated trading strategies related to program trading may create excess volatility that undermines investor confidence in the fairness and orderliness of the securities markets, and may, in fact, constitute a threat to the viability of America's capital markets.

In response to these concerns, the Exchange adopted and the Commission approved rule 80A in 1988 (Limitations on Trading During Significant Market Declines). To respond to changes in market needs and conditions, the Exchange has amended the rule on various occasions. In brief, the rule addresses market volatility by providing the following:

(i) The Exchange, in conjunction with the Chicago Mercantile Exchange, developed procedures whereby program trading orders are diverted to a separate file for five minutes on any day that the price of the primary Standard and Poor's 500 ("S&P 500") Stock Price Index futures contract trade on the Chicago Mercantile Exchange declines 12 points below its closing value on the previous trading day. (See SR-NYSE-88-22).

(ii) All index arbitrage orders to sell in component stocks of the S&P 500 Stock Price Index must be entered with the instruction "sell plus" when the Dow Jones Industrial Average ("DJIA") declines 50 points or more from its previous trading day's closing value, and all index arbitrage orders to buy in component stocks of the S&P 500 index must be entered with the instruction "buy minus" when the DJIA advances 50 points or more from its previous trading day's closing value (See SR-NYSE-90-5). These requirements do not apply when the DJIA subsequently reaches a value that is no more than 25 points above (as to buy minus orders) or below (as to sell plus orders) the previous day's close.<sup>1</sup>

(iii) Regarding trading in the Exchange Stock Portfolio ("ESP"), when the DJIA is up 50 points or more from its previous close, no purchase of a basket may be made at a price equal to or greater than the aggregate Tier 1 offer in the cash market. When the DJIA is down 50 points or more from its previous close,

no sale of a basket may be made at a price equal to or less than the aggregate Tier 1 bid in the cash market. Specialists are required to maintain Tier 1 and Tier 2 quotations in each of the specialty basket stocks. The ESP system automatically establishes the Tier 1 bid and offer for a basket's component stock.<sup>2</sup>

These requirements do not apply if the DJIA subsequently reaches a value that is no more than 25 points above (as to the restriction on a purchase of a basket of stocks) or below (as to the restriction on a sale of a basket of stocks) the previous day's close.<sup>3</sup>

These latter two provisions (paragraphs (c) and (d) of Rule 80A) were approved for a pilot program which will end on July 31, 1991. The Exchange is now seeking permanent approval of these provisions.

The Exchange believes that the provisions of rule 80A have been helpful in promoting market stability by minimizing excess volatility during periods of significant market movement on the NYSE, without adversely impacting the markets in derivative equity instruments.

*Interim and Final Report on Pilot Program's Effect.* In its Approval Order, the Commission requested an interim and final report analyzing the effects of rule 80A. On January 31, 1991, the Exchange forwarded an interim report as requested. Under separate cover, the Exchange has forwarded a final report on the effects of rule 80A.<sup>4</sup>

*Additional Commission Requests.* In addition to the interim and final reports referred to above, the Commission's staff has requested<sup>5</sup> information in a number of other areas. Responses to these requests are presented below:

*Appropriateness of 50 Point Trigger Value.* As outlined above, the order entry restrictions of rule 80A are triggered by a 50 point move in the Dow Jones Industrial Average from the previous day's closing value. The Commission has requested the Exchange's view as to whether this 50 point value continues to be the appropriate level.

While there is no specific, comparative data available to indicate that the 50 point trigger value represents

<sup>2</sup> See Securities Exchange Act Release No. 27382 (October 26, 1989), 54 FR 45834.

<sup>3</sup> See Approval Order, *supra* note 1.

<sup>4</sup> The reports are incorporated into this filing and are available from the NYSE or the Commission's Public Reference Room.

<sup>5</sup> See letter of April 26, 1991 from Howard Kramer, Assistant Director of the Division of Market Regulation to Donald Siemer, Director of Market Surveillance.

<sup>1</sup> See Securities Exchange Act Release No. 28282 (July 30, 1990), 55 FR 31468 ("Approval Order").



an ideal or optimal level for the restrictions, the experience of the pilot to date is that the 50 point level appears to be high enough that it is not triggered too frequently, yet low enough to act as meaningful check on excess market volatility which might be associated with index arbitrage activity. The rule's provisions were invoked 32 times between August 1, 1990 and April 30, 1991. Twenty-three of those occurred in the first five months of the pilot. As was noted in the interim report, this period coincided with several events which themselves had an impact on financial markets, including the Gulf Crisis, difficult Federal budget negotiations and increasing evidence of a recession. Since January 1, 1991 the rule has been applied to date eight times over five months. This latter pattern (about twice a month) appears to be representative of a more "normal" instance of the rule's invocation. As noted in the interim report, "it seems that many investors take comfort from the fact that on volatile days when the market moves 50 points, index arbitrage orders must meet a tick test." In addition, it appears that the securities industry and the financial marketplaces have come to accept the 50 point level as appropriate.

The Exchange does not believe that there is a significant benefit to be gained by testing additional or alternate trigger levels. The Exchange believes that the marketplace has judged the 50 point level and found it acceptable.

*Comments On the Operation of the Rule.* The provisions of rule 80 A have been the subject of several public pronouncements and much media coverage. The Exchange, however, has not received any written comments with respect to the rule.

#### (b) Statutory Basis

The basis under the Securities Exchange Act of 1934 ("the Act") for this proposed rule change is the requirement under section 6(b)(5) that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by July 11, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 14, 1991.

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 91-14739 Filed 6-19-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18197; 811-5408]

#### **Adirondack Income Shares, Inc.: Application**

June 13, 1991.

**AGENCY:** Securities and Exchange Commission ("SEC" or "Commission").

**ACTION:** Notice of Application for Deregistration under the Investment Company Act of 1940 (the "1940 Act").

**APPLICANT:** Adirondack Income Shares, Inc.

**RELEVANT 1940 ACT SECTION:** Section 8(f).

**SUMMARY OF APPLICATION:** Applicant seeks an order declaring that it has ceased to be an investment company under the 1940 Act.

**FILING DATE:** The application on Form N-8F was filed on April 10, 1991 and an amendment was filed on June 10, 1991.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 10, 1991, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, c/o DG Bank, 609 Fifth Avenue, New York, New York 10017-1021.

**FOR FURTHER INFORMATION CONTACT:** Felice R. Foundos, Staff Attorney, (202) 272-2190, or Jeremy N. Rubenstein, Branch Chief, (202) 272-3023 [Division of Investment Management, Office of Investment Company Regulation].

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

#### **Applicant's Representations**

1. Applicant is an open-end diversified management company organized as a corporation under the laws of the State of Maryland. On December 8, 1987, applicant filed a notification of registration pursuant to section 8(a) of the 1940 Act and a registration statement pursuant to



section 8(b) of the 1940 Act. Applicant's securities are not registered under the Securities Act of 1933. Applicant has no more than 100 security holders and has never made a public offering of its securities.

2. Applicant was organized primarily to provide institutional investors organized in the Federal Republic of Germany with an investment subject to favorable tax treatment. Pursuant to a new income tax treaty between the United States and what was then the Federal Republic of Germany, these tax advantages were eliminated as of December 31, 1990. Upon losing the tax advantages, applicant's shareholders requested the redemption of all outstanding shares. Because of the redemptions, on April 1, 1991, applicant's board of directors authorized the dissolution of applicant.

3. Pursuant to the liquidation, applicant's portfolio securities were sold through government dealers at market price without the payment of any brokerage commission.

4. On January 2, 1991, applicant distributed to its shareholders \$9.29 per share, which represented all of applicant's assets on that date.

5. Applicant paid approximately \$3,500 in legal and other expenses related to the liquidation.

6. Applicant is in the process of filing articles of dissolution with the State of Maryland.

7. As of the date of the application, applicant had no debts or liabilities, and was not a party to any litigation or administrative proceeding.

8. Applicant is neither engaged in nor proposes to engage in any business activities other than those necessary for the winding up of its affairs as an investment company.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-14740 Filed 6-19-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18199; 811-5619]

### **Allegheny Income Shares, Inc.; Application**

June 13, 1991.

**AGENCY:** Securities and Exchange Commission ("SEC" or "Commission").

**ACTION:** Notice of Application for Deregistration under the Investment Company Act of 1940 (the "1940 Act").

**APPLICANT:** Allegheny Income Shares, Inc.

**RELEVANT 1940 ACT SECTION:** Section 8(f).

**SUMMARY OF APPLICATION:** Applicant seeks an order declaring that it has ceased to be an investment company under the 1940 Act.

**FILING DATE:** The application on Form N-8F was filed on April 10, 1991 and an amendment was filed on June 10, 1991.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 10, 1991, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, c/o DG Bank, 609 Fifth Avenue, New York, New York 10017-1021.

**FOR FURTHER INFORMATION CONTACT:** Felice R. Foundos, Staff Attorney, (202) 272-2190, or Jeremy N. Rebenstein, Branch Chief, (202) 272-3023 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

### **Applicant's Representations**

1. Applicant is an open-end diversified management company organized as a corporation under the laws of the State of Maryland. On July 20, 1988, applicant filed a notification of registration pursuant to section 8(a) of the 1940 Act and a registration statement pursuant to section 8(b) of the 1940 Act. Applicant's securities are not registered under the Securities Act of 1933. Applicant has no more than 100 security holders and has never made a public offering of its securities.

2. Applicant was organized primarily to provide institutional investors organized in the Federal Republic of Germany with an investment subject to favorable tax treatment. Pursuant to a new income tax treaty between the United States and what was then the Federal Republic of Germany, these tax advantages were eliminated as of

December 31, 1990. Upon losing the tax advantages, applicant's shareholders requested the redemption of all outstanding shares. Because of the redemptions, on April 1, 1991, applicant's board of directors authorized the dissolution of applicant.

3. Pursuant to the liquidation, applicant's portfolio securities were sold through government dealers at market price without the payment of any brokerage commission.

4. On January 2, 1991, applicant distributed to its shareholders \$9.57 per share, which represented all of applicant's assets on that date.

5. Applicant paid approximately \$3,500 in legal and other expenses related to the liquidation.

6. Applicant is in the process of filing articles of dissolution with the State of Maryland.

7. As of the date of the application, applicant had no debts or liabilities, and was not a party to any litigation or administrative proceeding.

8. Applicant is neither engaged in nor proposes to engage in any business activities other than those necessary for the winding up of its affairs as an investment company.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-14747 Filed 6-19-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18198; 811-5680]

June 13, 1991.

### **The Boston Company Index and Blue Chip Trust; Application**

**AGENCY:** Securities and Exchange Commission ("SEC" or "Commission").

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

**APPLICANT:** The Boston Company Index and Blue Chip Trust.

**RELEVANT 1940 ACT SECTIONS:** Section 8(f).

**SUMMARY OF APPLICATION:** Applicant seeks an order declaring that it has ceased to be an investment company.

**FILING DATE:** The application was filed on October 22, 1990, and amended on June 12, 1991.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's



Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 8, 1991, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, One Boston Place, Boston, Massachusetts 02108.

**FOR FURTHER INFORMATION CONTACT:** Barbara Chretien-Dar, Staff Attorney, at (202) 272-3022, or Stephanie M. Monaco, Branch Chief, at (202) 272-3030 (Office of Investment Company Regulation, Division of Investment Management).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

#### Applicant's Representations

1. Applicant, an open-end investment company organized under Massachusetts law, filed a registration statement with respect to an indefinite number of shares under the Securities Act of 1933 on May 31, 1988 which registration statement was declared effective on October 11, 1988. The shares consisted of four separate series: Equity Index Fund, Blue Chip Fund, Small Capitalization Equity Index Fund, and Bond Index Fund. On October 21, 1988, applicant registered under the 1940 Act by resubmitting Form N-8A which it had sent to the Commission earlier along with its registration statement.

2. On January 10, 1990, applicant's adviser, The Boston Company Advisors, Inc., recommended to applicant's board of trustees that applicant cease the sale of its shares with a view toward winding up its affairs due to its uneconomical size and the lack of any growth prospects. The board of trustees approved the investment adviser's recommendation. On January 25, 1990, applicant sent a letter to all of its 443 shareholders informing them of the board's action and urging them to consider redeeming or exchanging their shares for shares in comparable investment companies within the same group of funds. As of January 25, 1990, each series had the following aggregate net assets and per share net asset value, respectively: Equity Index Fund: \$307,803,066 and \$10.91; Blue Chip Fund:

\$67,092,703 and \$8.97; Small Capitalization Equity Index Fund: \$212,147.91 and \$14.66; and Bond Index Fund: \$1,991,703.98 and \$11.37. By June 5, 1990, all shareholders, except the investment adviser, had instructed their transfer agent to either redeem or exchange their shares. Each transaction was processed in the ordinary course of business and all shares were redeemed at the net asset value next determined after the redemption request was received.

3. On July 18, 1990, the board of trustees approved a plan of liquidation and termination which was thereafter approved by the investment adviser as applicant's sole shareholder. As of December 31, 1989, applicant ceased amortizing organizational expenses so the balance of the remaining expenses would continue unchanged for the remaining life of the applicant. These expenses were deducted from the cash proceeds paid to the adviser on August 29, 1990 for its shares, thus charging it with all remaining organizational expenses.

4. Applicant will terminate its existence under Massachusetts law. Applicant has no assets or liabilities. Applicant is not a party to any litigation or administrative proceedings. Applicant has no remaining shareholders.

5. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 91-14742 Filed 6-19-91; 8:45 am]

BILLING CODE 8010-61-M

[Rel. No. IC-18200; 811-4456]

#### Humboldt Income Shares, Inc.; Application

June 13, 1991.

**AGENCY:** Securities and Exchange Commission ("SEC" or "Commission").

**ACTION:** Notice of Application for Deregistration under the Investment Company Act of 1940 (the "1940 Act").

**APPLICANT:** Humboldt Income Shares, Inc.

**RELEVANT 1940 ACT SECTION:** Section 8(f).

**SUMMARY OF APPLICATION:** Applicant seeks an order declaring that it has ceased to be an investment company under the 1940 Act.

**FILING DATE:** The application on Form N-8F was filed on April 10, 1991 and an amendment was filed on June 10, 1991.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 10, 1991, and should be accompanied by proof of service on application, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, c/o DG Bank, 609 Fifth Avenue, New York, New York 10017-1021.

**FOR FURTHER INFORMATION CONTACT:** Felice R. Foundos, Staff Attorney, (202) 272-2190, or Jeremy N. Rubenstein, Branch Chief, (202) 272-3023 (Division of Investment Management, Office of Investment Company Regulations).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

#### Applicant's Representations

1. Applicant is an open-end diversified management company organized as a corporation under the laws of the State of Maryland. On November 4, 1985, applicant filed a notification of registration pursuant to section 8(a) of the 1940 Act and a registration statement pursuant to section 8(b) of the 1940 Act. Applicant's securities are not registered under the Securities Act of 1933. Applicant has not more than 100 security holders and has never made a public offering of its securities.

2. Applicant was organized primarily to provide institutional investors organized in the Federal Republic of Germany with an investment subject to favorable tax treatment. Pursuant to a new income tax treaty between the United States and what was then the Federal Republic of Germany, these tax advantages were eliminated as of December 31, 1990. Upon losing the tax advantages, applicant's shareholders requested the redemption of all outstanding shares. Because of the redemptions, on April 1, 1991,



applicant's board of directors authorized the dissolution of applicant.

3. Pursuant to the liquidation, applicant's portfolio securities were sold through government dealers at market price without the payment of any brokerage commission.

4. On January 1, 1991, applicant distributed to its shareholders \$8.91 per share, which represented all of applicant's assets on that date.

5. Applicant paid approximately \$3,500 in legal and other expenses related to the liquidation.

6. Applicant is in the process of filing articles of dissolution with the State of Maryland.

7. As of the date of the application, applicant had no debts or liabilities, and was not a party to any litigation or administrative proceeding.

8. Applicant is neither engaged in nor proposes to engage in any business activities other than those necessary for the winding up of its affairs as an investment company.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 91-14743 Filed 6-19-91; 8:45 am]

BILLING CODE 8010-01-M

## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster Loan Area #2503]

#### Louisiana; With Contiguous Counties in Arkansas, Mississippi & Texas; Amendment #3, Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with amendments dated May 31, 1991, to the President's major disaster declaration of May 3, to include the parishes of Livingston and St. Charles in the State of Louisiana as a disaster area as a result of damages caused by severe storms, tornadoes, and flooding and to establish the incident period as beginning on April 27 and continuing through May 31, 1991.

In addition, applications for economic injury loans from small businesses located in the contiguous parish of St. Helena and Orleans Parish, which was omitted from the previous amendment for the State of Louisiana, may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., the termination date for filing applications for physical damage is July 2, 1991, and for economic injury until the close of business on February 3, 1992.

The economic injury numbers are 731300 for Louisiana; 731400 for Arkansas; 731500 for Mississippi, and 7318 for Texas.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: June 7, 1991.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 91-14659 Filed 6-19-91; 8:45 am]

BILLING CODE 8025-01-M

### [Declaration of Disaster Loan Area #2505]

#### Mississippi; With Contiguous Counties in Arkansas, Alabama, Tennessee, Louisiana; Amendment #1, Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with amendments dated May 23, 30, and 31, and June 3, 1991, to the President's major disaster declaration of May 17, to include the counties of Alcorn, Bolivar, Calhoun, Clay, George, Harrison, Issaquena, Itawamba, Lee, Lowndes, Madison, Monroe, Pearl River, Tishomingo, Webster, and Yazoo in the State of Mississippi as a disaster area as a result of damages caused by severe storms, tornadoes, and flooding and to establish the incident period as beginning on April 26 and continuing through May 31, 1991.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Benton, Chickasaw, Choctaw, Forest, Greene, Hancock, Jackson, Lamar, Leake, Marion, Noxubee, Oktibeha, Perry, Pontotoc, Prentiss, Rankin, Scott, Stone, Tippah, and Union in the State of Mississippi; Desha County in the State of Arkansas; Colbert, Franklin, Lamar, Lauderdale, Marion, Mobile, and Pickens Counties in the State of Alabama; Fayette, Hardeman, Hardin, McNairy, and Shelby Counties in the State of Tennessee; and St. Tammany and Washington Counties in the State of Louisiana may be filed until the specified date at the previously designated location.

Any counties contiguous to the above-named primary counties and not listed herein have previously been named as contiguous or primary counties for the same occurrence.

All other information remains the same, i.e., the termination date for filing applications for physical damage is July 15, 1991, and for economic injury until the close of business on February 18, 1992.

The economic injury numbers are 731500 for Mississippi, 731300 for

Louisiana; 731400 for Arkansas; 7319 for Alabama; and 7322 for Tennessee.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: June 7, 1991.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 91-14660 Filed 6-19-91; 8:45 am]

BILLING CODE 8025-01-M

## Action Subject to Intergovernmental Review

**AGENCY:** Small Business Administration.

**ACTION:** Notice of action subject to intergovernmental review under Executive Order 12372.

**SUMMARY:** This notice provides for public awareness of SBA's intention to refund twenty-four presently existent Small Business Development Centers (SBDCs) on October 1, 1991. Currently there are 57 SBDCs operating in the SBDC program. The following SBDCs are intended to be refunded, subject to the availability of funds: Alabama, Alaska, Connecticut, Delaware, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New York (Upstate), New York (Downstate), Ohio, Puerto Rico, Dallas, Houston, Lubbock, San Antonio, Vermont, Virgin Islands, West Virginia and Wyoming. This notice also provides a description of the SBDC program by setting forth a condensed version of the program announcement which has been furnished to each of the SBDCs to be refunded. This publication is being made to provide the State single points of contact, designated pursuant to Executive Order 12372, and other interested State and local entities, the opportunity to comment on the proposed refunding in accord with the Executive Order and SBA's regulations found at 13 CFR part 135.

**EFFECTIVE DATE:** 90 days from date of publication.

**ADDRESSES:** Comments should be addressed to Ms. Johnnie L. Albertson, Associate Administrator for SBDC Program, U.S. Small Business Administration, 409 Third Street SW., Sixth Floor, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Same as above.

## Notice of Action Subject to Intergovernmental Review

SBA is bound by the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." SBA has promulgated



regulations spelling out its obligations under that Executive Order. See 13 CFR part 135, effective September 30, 1983.

In accord with these regulations, specifically § 135.4, SBA is publishing this notice to provide public awareness of the pending application of twenty-four presently existent Small Business Development Centers (SBDCs) for refunding. Also, published herewith is an annotated program announcement describing the SBDC program in detail.

This notice is being published three months in advance of the expected date of refunding these SBDCs. Relevant information identifying these SBDCs and providing their mailing address is provided below. In addition to this publication, a copy of this notice is being simultaneously furnished to the affected State single point of contact which has been established under the Executive Order.

The State single points of contact and other interested State and local entities are expected to advise the relevant SBDC of their comments regarding the proposed refunding in writing as soon as possible. The SBDC proposal cannot be inconsistent with any area-wide plan providing assistance to small business, if there is one, which has been adopted by an agency recognized by the State government as authorized to do so. Copies of such written comments should also be furnished to Ms. Johnnie L. Albertson, Associate Administrator for SBDC Program, U.S. Small Business Administration, 409 Third Street SW., Sixth Floor, Washington, DC 20416. Comments will be accepted by the relevant SBDC and SBA for a period of 90 days from the date of publication of this notice. The relevant SBDC will make every effort to accommodate these comments during the 90-day period. If the comments cannot be accommodated by the relevant SBDC, SBA will, prior to refunding the SBDC, either attain accommodation of any comments or furnish an explanation of why accommodation cannot be attained to the commenter prior to refunding the SBDC.

#### *Description of the SBDC Program*

The SBDC operates under the general management and oversight of SBA, but with recognition that a partnership exists between the Agency and the SBDC for the delivery of assistance to the small business community. SBDC services shall be provided pursuant to a negotiated Cooperative Agreement with full participation of both parties.

SBDCs operate on the basis of a state plan to provide assistance within a state or designated geographical area. The initial plan must have the written

approval of the Governor. As a condition to any financial award made to an applicant, non-Federal funds must be provided from sources other than the Federal Government. SBDCs operate under the provisions of Public Law 96-302, as amended by Public Law 98-395, a Notice of Award (Cooperative Agreement) issued by SBA, and the provisions of this Program Announcement.

#### *Purpose and Scope*

The SBDC Program is designed to provide quality assistance to small businesses in order to promote growth, expansion, innovation, increased productivity and management improvement. To accomplish these objectives, SBDCs link resources of the Federal, State, and local governments with the resources of the educational system and the private sector to meet the specialized and complex needs of the small business community. SBDCs also coordinate with other SBA programs of business development and utilize the expertise of these affiliated resources to expand services and avoid duplication of effort.

#### *Program Objectives*

The overall objective of the SBDC Program is to leverage Federal dollars and resources with those of the state, academic community and private sector to:

- (a) Strengthen the small business community;
- (b) Contribute to the economic growth of the communities served;
- (c) Make assistance available to more small businesses than is now possible with present Federal resources;
- (d) Create a broader based delivery system to the small business community.

#### *SBDC Program Organization*

SBDCs are organized to provide maximum services to the local small business community. The lead SBDC receives financial assistance from the SBA to operate a statewide SBDC Program. In states where more than one organization receives SBA financial assistance to operate an SBDC, each lead SBDC is responsible for Program operations throughout a specific regional area to be served by the SBDC. The lead SBDC is responsible for establishing a network of SBDC subcenters to offer service coverage to the small business community. The SBDC network is managed and directed by a full-time Director. SBDCs must ensure that at least 80 percent of Federal funds provided are used to provide services to small businesses. To the extent possible, SBDCs provide services by enlisting

volunteer and other low cost resources on a statewide basis.

#### *SBDC Services*

The specific types of services to be offered are developed in coordination with the SBA district office which has jurisdiction over a given SBDC. SBDCs emphasize the provision of indepth, high-quality assistance to small business owners or prospective small business owners in complex areas that require specialized expertise. These areas may include, but are not limited to: management, marketing, financing, accounting, strategic planning, regulation and taxation, capital formation, procurement assistance, human resource management, production, operations, economic and business data analysis, engineering, technology transfer, innovation and research, new product development, product analysis, plant layout and design, agri-business, computer application, business law information, and referral (any legal services beyond basic legal information, and referral require the endorsement of the State Bar Association,) exporting, office automation, site selection, or any other areas of assistance required to promote small business growth, expansion, and productivity within the State. The SBDC shall also ensure that a full range of business development and technical assistance services are made available to small businesses located in rural areas.

The degree to which SBDC resources are directed towards specific areas of assistance is determined by local community needs, SBA priorities and SBDC Program objectives and agreed upon the SBA district office and the SBDC.

The SBDC must offer quality training to improve the skills and knowledge of existing and prospective small business owners. As a general guideline, SBDCs should emphasize the provision of training in specialized areas other than basic small business management subjects. SBDCs should also emphasize training designed to reach particular audiences such as members of SBA priority and special emphasis groups.

#### *SBDC Program Requirements*

The SBDC is responsible to the SBA for ensuring that all programmatic and financial requirements imposed upon them by statute or agreement are met. The SBDC must assure that quality assistance and training in management and technical areas are provided to the State small business community through the State SBDC network. As a condition



of this agreement, the SBDC must perform, but not be limited to, the following activities:

(a) The SBDC ensures that services are provided as close as possible to small business population centers. This is accomplished through the establishment of SBDC subcenters.

(b) The SBDC ensures that lists of local and regional private consultants are maintained at the lead SBDC and each SBDC subcenter. The SBDC utilizes and provides compensation to qualified small business vendors such as private management consultants, private consulting engineers, and private testing laboratories.

(c) The SBDC is responsible for the development and expansion of resources within the State, particularly the development of new resources to assist small business that are not presently associated with the SBA district office.

(d) The SBDC ensures that working relationships and open communications exist within the financial and investment communities, and with legal associations, private consultants, as well as small business groups and associations to help address the needs of the small business community.

(e) The SBDC ensures that assistance is provided to SBA special emphasis groups throughout the SBDC network. This assistance shall be provided to veterans, women, exporters, the handicapped, and minorities as well as any other groups designated a priority by SBA. Services provided to special emphasis groups shall be performed as part of the Cooperative Agreement.

#### *Advance Understandings*

The Lead SBDC and all SBDC subcenters shall operate on a forty (40) hour week basis, or during the normal business hours of the State or Host Organization, throughout the calendar year.

The amount of time allowed the Lead SBDC and subcenters for staff vacations and holidays shall conform to the policy of the Host organization.

Dated: June 6, 1991.

Patricia Saiki,  
Administrator.

#### *Addresses of Relevant SBDC State Directors*

Dr. Jeff Gibbs, State Director, University of Alabama, 1717 11th Ave. South, suite 419, Birmingham, AL 35294, (205) 934-7280

Mr. John P. O'Connor, State Director, University of Connecticut, Box U-41, room 422, Storrs, CT 06268, (413) 545-6301

Mr. Ronald Manning, State Director, Iowa State University, 137 Lynn Avenue, Ames, IA 50010, (515) 292-6351

Dr. John Baker, State Director, Northeast Louisiana University, College of Business

Admin., 700 University Avenue, Monroe, LA 71209, (318) 342-5508

Mr. John Ciccarelli, State Director, University of Massachusetts, School of Management, Amherst, MA 01003, (413) 545-6301

Mr. Raleigh Byars, State Director, University of Mississippi, Old Chemistry Building, University, MS 38677, (601) 234-2120

Mr. James L. King, State Director, State University of New York, SUNY Plaza, S-523, Albany, NY 12246, (518) 443-5398

Ms. Jan Fredericks, State Director, University of Alaska/Anchorage, 430 West 7th Avenue, suite 115, Anchorage, AK 99501, (907) 274-7232

Ms. Linda Fayerweather, State Director, University of Delaware, suite 005—Purnell Hall, Newark, DE 19711, (302) 451-2747

Ms. Janet Holloway, State Director, University of Kentucky, 465 East High Street, suite 201, Lexington, KY 40507-1941, (606) 257-7668

Mr. Elliott Rittenhouse, Jr., State Director, Department of Economic and Employment Development, 217 East Redwood St., 10th Floor, Baltimore, MD 21202, (301) 333-6996

Dr. Norman Schlafmann, State Director, Wayne State University, 2727 Second Avenue, Detroit, MI 48201, (313) 577-4848

Mr. Max Summers, State Director, University of Missouri, suite 300, University Place, Columbia, MO 65211, (314) 882-1348

Mr. Jack Brown, State Director, Ohio Department of Development, 30 East Broad Street, Columbus, OH 43268-1001, (614) 466-5111

Mr. Jose Romaguera, Director, University of Puerto Rico, Box 5253—College Station, Mayaguez, PR 00708, (809) 834-3590

Dr. Elizabeth Gatewood, Region Director, University of Houston, 601 Jefferson, suite 2330, Houston, TX 77002, (713) 752-8444

Mr. Robert McKinley, Region Director, Univ. of Texas at San Antonio, San Antonio, TX 78285-0680

Dr. Solomon Kabuka, Jr., Director, Univ. of the Virgin Islands, Grand Hotel Building, Annex B, P.O. Box 1087, St. Thomas, US V. Islands 00804, (809) 776-3208

Ms. Barbara Brews, Acting State Director, Casper Community College, 111 West Second Street, suite 416, Casper, WY 82601

Dr. Norb Dettmann, Region Director, Dallas Community College, 1402 Corinth Street, Dallas, TX 75215, (214) 565-5831

Mr. Craig Bean, Acting Region Director, Texas Tech University, 2570 South Loop 289, suite 114, Lubbock, TX 79423-1637, (806) 745-3973

Mr. Norris Elliott, State Director, University of Vermont, Morrill Hall, Burlington, VT 05405

Ms. Eloise Jack, State Director, Governor's Office of Community and Industrial Development, 1115 Virginia Street, East, Charleston, WV 25310, (304) 348-2960

[FR Doc. 91-14661 Filed 6-19-91; 8:45 am]

BILLING CODE 8025-01-M

#### **Action Subject to Intergovernmental Review**

**AGENCY:** Small Business Administration.

**ACTION:** Notice of action subject to intergovernmental review under Executive Order 12372.

**SUMMARY:** This notice provides for public awareness of SBA's intention to refund thirty-three presently existent Small Business Development Centers (SBDCs) on January 1, 1992. Currently there are 57 SBDCs operating in the SBDC program. The following SBDCs are intended to be refunded, subject to the availability of funds: Arizona, Arkansas, California, Colorado, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Kansas, Maine, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington and Wisconsin. This notice also provides a description of the SBDC program by setting forth a condensed version of the program announcement which has been furnished to each of the SBDCs to be refunded. This publication is being made to provide the State single points of contact, designated pursuant to Executive Order 12372, and other interested State and local entities, the opportunity to comment on the proposed refunding in accord with the Executive Order and SBA's regulations found at 13 CFR part 135.

**EFFECTIVE DATE:** 90 days from date of publication.

**ADDRESSES:** Comments should be addressed to Ms. Johnnie L. Albertson, Associate Administrator for SBDC Program, U.S. Small Business Administration, 490 Third Street SW., Sixth Floor, Washington, DC 20416

**FOR FURTHER INFORMATION CONTACT:** Same as above

#### **Notice of Action Subject to Intergovernmental Review**

SBA is bound by the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." SBA has promulgated regulations spelling out its obligations under that Executive Order. See 13 CFR part 135, effective September 30, 1983.

In accord with these regulations, specifically § 135.4, SBA is publishing this notice to provide public awareness of the pending application of thirty-three presently existent Small Business Development Centers (SBDCs) for refunding. Also, published herewith is an annotated program announcement describing the SBDC program in detail.

This notice is being published three months in advance of the expected date



of refunding these SBDCs. Relevant information identifying these SBDCs and providing their mailing address is provided below. In addition to this publication, a copy of this notice is being simultaneously furnished to the affected State single point of contact which has been established under the Executive Order.

The State single points of contact and other interested State and local entities are expected to advise the relevant SBDC of their comments regarding the proposed refunding in writing as soon as possible. The SBDC proposal cannot be inconsistent with any area-wide plan providing assistance to small business, if there is one, which has been adopted by an agency recognized by the State government as authorized to do so. Copies of such written comments should also be furnished to Ms. Johnnie L. Albertson, Associate Administrator for SBDC program, U.S. Small Business Administration, 409 Third Street, SW., Sixth Floor, Washington, DC 20416. Comments will be accepted by the relevant SBDC and SBA for a period of 90 days from the date of publication of this notice. The relevant SBDC will make every effort to accommodate these comments during the 90-day period. If the comments cannot be accommodate by the relevant SBDC, SBA will, prior to refunding the SBDC, either attain accommodation of any comments or furnish an explanation of why accommodation cannot be attained to the commentator prior to refunding the SBDC.

#### *Description of the SBDC Program*

The SBDC operates under the general management and oversight of SBA, but with recognition that a partnership exists between the Agency and the SBDC for the delivery of assistance to the small business community. SBDC services shall be provided pursuant to a negotiated Cooperative Agreement with full participation of both parties.

SBDCs operate on the basis of a state plan to provide assistance within a state or designated geographical area. The initial plan must have the written approval of the Governor. As a condition to any financial award made to an applicant, non-Federal funds must be provided from source other than the Federal Government. SBDCs operate under the provisions of Public Law 96-302, as amended by Public Law 98-395, a Notice of Award (Cooperative Agreement) issued by SBA, and the provisions of this Program Announcement.

#### *Purpose and Scope*

The SBDC Program is designed to provide quality assistance to small businesses in order to promote growth, expansion, innovation, increased productivity and management improvement. To accomplish these objectives, SBDCs link resources of the Federal, State, and local governments with the resources of the educational system and the private sector to meet the specialized and complex needs of the small business community. SBDCs also coordinate with other SBA programs of business development and utilize the expertise of these affiliated resources to expand services and avoid duplication of effort.

#### *Program Objectives*

The overall objective of the SBDC Program is to leverage Federal dollars and resources with those of the state, academic community and private sector to:

- (a) Strengthen the small business community;
- (b) Contribute to the economic growth of the communities served;
- (c) Make assistance available to more small businesses than is now possible with present Federal resources;
- (d) Create a broader based delivery system to the small business community.

#### *SBDC Program Organization*

SBDCs are organized to provide maximum services to the local small business community. The lead SBDC receives financial assistance from the SBA to operate a statewide SBDC Program. In states where more than one organization receives SBA financial assistance to operate an SBDC, each lead SBDC is responsible for Program operations throughout a specific regional area to be served by the SBDC. The lead SBDC is responsible for establishing a network of SBDC subcenters to offer service coverage to the small business community. The SBDC network is managed and directed by a full-time Director. SBDCs must ensure that at least 90 percent of Federal funds provided are used to provide services to small businesses. To the extent possible, SBDCs provide services by enlisting volunteer and other low cost resources on a statewide basis.

#### *SBDC Services*

The specific types of services to be offered are developed in coordination with the SBA district office which has jurisdiction over a given SBDC. SBDCs emphasize the provision of indepth, high-quality assistance to small business owners or prospective small business

owners in complex areas that require specialized expertise. These areas may include, but are not limited to: Management, marketing, financing, accounting, strategic planning, regulation and taxation, capital formation, procurement assistance, human resources management, production, operations, economic and business data analysis, engineering, technology transfer, innovation and research, new product development, product analysis, plant layout and design, agri-business, computer application, business law information, and referral (any legal services beyond basic legal information, and referral require the endorsement of the State Bar Association,) exporting, office automation, site selection, or any other areas of assistance required to promote small business growth, expansion, and productivity within the State. The SBDC shall also ensure that a full range of business development and technical assistance services are made available to small businesses located in rural areas.

The degree to which SBDC resources are directed towards specific areas of assistance is determined by local community needs, SBA priorities and SBDC Program objectives and agreed upon by the SBA district office and the SBDC.

The SBDC must offer quality training to improve the skills and knowledge of existing and prospective small business owners. As a general guideline, SBDCs should emphasize the provision of training in specialized areas other than basic small business management subjects. SBDCs should also emphasize training designed to reach particular audiences such as members of SBA priority and special emphasis groups.

#### *SBDC Program Requirements*

The SBDC is responsible to the SBA for ensuring that all programmatic and financial requirements imposed upon them by statute or agreement are met. The SBDC must assure that quality assistance and training in management and technical areas are provided to the State small business community through the State SBDC network. As a condition of this agreement, the SBDC must perform, but not be limited to, the following activities:

- (a) The SBDC ensures that services are provided as close as possible to small business population centers. This is accomplished through the establishment of SBDC subcenters.
- (b) The SBDC ensures that lists of local and regional private consultants are maintained at the lead SBDC and



each SBDC subcenter. The SBDC utilizes and provides compensation to qualified small business vendors such as private management consultants, private consulting engineers, and private testing laboratories.

(c) The SBDC is responsible for the development and expansion of resources within the State, particularly the development of new resources to assist small business that are not presently associated with the SBA district office.

(d) The SBDC ensures that working relationships and open communications exist within the financial and investment communities, and with legal associations, private consultants, as well as small business groups and associations to help address the needs of the small business community.

(e) The SBDC ensures that assistance is provided to SBA special emphasis groups throughout the SBDC network. This assistance shall be provided to veterans, women, exporters, the handicapped, and minorities as well as any other groups designated a priority by SBA. Services provided to special emphasis groups shall be performed as part of the Cooperative Agreement.

#### *Advance Understandings*

The Lead SBDC and all SBDC subcenters shall operate on a forty (40) hour week basis, or during the normal business hours of the State or Host Organization, throughout the calendar year.

The amount of time allowed the Lead SBDC and subcenters for staff vacations and holidays shall conform to the policy of the Host organization.

Dated: June 6, 1991.

Patricia Saiki,  
Administrator.

#### **Addresses of Relevant SBDC State Directors**

Mr. Dave Smith, State Director, Gateway Community College, 108 North 40th St., suite 148, Phoenix, AZ 85034, (602) 392-5224  
Dr. Edward Kawahara, State Director, Department of Commerce, 1121 L Street, suite 800, Sacramento, CA 95814  
Ms. Nancy Flake, Director, Howard University, 8th & Fairmount Street SW., Washington, DC 20059, (202) 806-1550  
Mr. Hank Logan, Acting State Director, University of Georgia, Chicopee Complex, Athens, GA 30602, (404) 542-5760  
Mr. Ronald Hall, State Director, Boise State University, College of Business, 1910 University Drive, Boise, ID 83725, (208) 385-1640  
Mr. Steve Thrash, State Director, Economic Development Council, One North Capitol, suite 200, Indianapolis, IN 46204, (317) 634-1690  
Ms. Diane Branscomb, Acting State Director, University of Southern Maine, 96 Falmouth Street, Portland, ME 04103, (207) 780-4420

Mr. Paul McGinnis, State Director, University of Arkansas, 100 South Main, suite 401, Little Rock, AR 72201, (501) 324-8043  
Mr. Rick Garcia, State Director, Office of Business Development, 1625 Broadway, suite 1710, Denver, CO 80203  
Mr. Jerry Cartwright, State Director, University of West Florida Building 38, Pensacola, FL 32514 (904) 474-3016  
Ms. Janet Nye, State Director, University of Hawaii/Hilo, 523 West Lanikaula Street, Hilo, HI 96720-4091, (808) 933-3459  
Mr. Jeffrey Mitchell, State Director, Department of Commerce and Community Affairs, 620 East Adams Street, Springfield, IL 62701, (217) 524-5856  
Mr. Tom Hull, State Director, Wichita State University, 1749 Yale Street, Wichita, KS 67218, (316) 689-3193  
Mr. Randall Olson, State Director, Dept. of Trade and Economic Dev., 150 East Kellogg Boulevard, St. Paul, MN 55101-1421, (612) 297-5773  
Mr. Evan McKinney, State Director, Department of Commerce, 1424 Ninth Avenue, Helena, MT 59620, (406) 444-4780  
Mr. Sam Males, State Director, University of Nevada/Reno, College of Business Admin., room 411, Reno, NV 89557-0016, (702) 784-1717  
Ms. Brenda B. Hopper, State Director, Rutgers University, 180 University Street, Newark, NJ 07102, (201) 648-5950  
Mr. Scott Daugherty, State Director, University of North Carolina, 4509 Creedmoor Road, suite 201, Raleigh, NC 27612, (919) 733-4643  
Dr. Grady Pennington, State Director, SE Oklahoma State University, 517 West University, Durant, OK 74701, (405) 924-0277  
Mr. Greg Higgins, State Director, University of Pennsylvania, The Wharton School, 444 Vance Hall, Philadelphia, PA 19104, (215) 898-1219  
Mr. John Lenti, State Director, University of South Carolina, College of Business Admin., 1710 College Street, Columbia, SC 29208, (803) 777-4907  
Mr. Robert Bernier, State Director University of Nebraska/Omaha, Peter Kiewit Center, Omaha, NE 68182, (402) 554-2521  
Ms. Helen Goodman, State Director, University of New Hampshire, University Center, 400 Commercial Street, room 311, Manchester, NH 03101, (603) 825-4522  
Mr. Randy Grissom, State Director, Santa Fe Community College, P.O. Box 4187, Santa Fe, NM 87502-4187, (505) 439-1362  
Mr. Wally Kearns, State Director, University of North Dakota, Gamble Hall, University Station, Grand Forks, ND 58202-7308, (701) 777-3700  
Mr. Sandy Cutler, State Director, Lane Community College, 99 West 10th Avenue, suite 218, Eugene, OR 97401, (503) 726-2250  
Mr. Douglas Jobling, State Director, Bryant College, 1150 Douglas Pike, Smithfield, RI 02917-1284, (401) 232-6111  
Mr. Donald Greenfield, State Director, University of South Dakota, School of Business, 414 East Clark, Vermillion, SD 57069, (605) 677-5272  
Dr. Kenneth J. Burns, State Director, Memphis State University, Memphis, TN 38152, (901) 678-2500

Dr. Robert Smith, State Director, Department of Economic Development, 1021 East Cary Street, Richmond, VA 23219-798, (804) 371-8100

Mr. William Pinkovitz, State Director, University of Wisconsin, 432 North Lake Street, room 423, Madison, WI 53706, (608) 263-7794

Mr. David Nimkin, State Director, University of Utah 102 West 500 South Salt Lake City, UT 84102 (801) 581-7905

Mr. Lyle Anderson, State Director, Washington State University, College of Business and Economics, Pullman, WA 99164, (509) 335-1576

[FR Doc. 91-14662 Filed 6-19-91; 8:45 am]

BILLING CODE 8025-01-M

#### **Region VII Advisory Council Meeting; Public Meeting**

The U.S. Small Business Administration Region VII Advisory Council, located in the geographical area of Kansas City, will hold a public meeting from 10 a.m. to 3 p.m. on Tuesday, July 2, 1991, at 1010 Grand, Kansas City, Missouri, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others presented.

For further information, write or call Dan Loar, Special Assistant to the Regional Administrator, U.S. Small Business Administration, 911 Walnut, Kansas City, MO 64106, telephone (816) 428-3125.

Dated: June 13, 1991.

Jean M. Nowak,

[FR Doc. 14658 Filed 6-19-91; 8:45 am]

BILLING CODE 8025-01-M

#### **DEPARTMENT OF STATE**

[Public Notice 1415]

#### **Presidential Task Force on U.S. Government International Broadcasting; Meetings**

The Task Force announces the following schedule of meetings all which will take place at 1555 Wilson Blvd., suite 604, Arlington, Virginia:

June 26-27, 1991; August 7-8, 1991; September 11-12, 1991; October 2-3, 1991.

The June 26-27 meeting will occur less than fifteen days from the publication of this notice. This occurs because the duration of the Task Force is severely limited and it is necessary to obtain information as quickly as possible to assure that recommendations are made to the President by the November 23,



1991 time set in the White House announcement of the Task Force.

The meetings will be in two segments each day, from 9 a.m. to noon and from 2 p.m. to 5 p.m. All segments of the meetings will be open to the public except the afternoon sessions of the second day of each meeting which, in accordance with section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. I, section 10(d), have been determined to involve the discussion of matters exempt from disclosure under 5 U.S.C. 55b(c)(1).

The reasons supporting this determination are that the Task Force's meetings during these periods will involve the discussion and examination of materials properly classified under the terms of Executive Order 12065 of June 28, 1978, and the effect of such materials on the deliberations of the Task Force in carrying out the tasks assigned to it by the President in the White House statement of April 29, 1991 establishing the Task Force.

Members of the general public may attend the meetings, except for the afternoon sessions of the second day of each meeting, and may participate in discussions, subject to instructions from the Chairman. Admittance will be limited to the seating available. All those planning to attend should call 703-235-9000 prior to the appropriate meeting to assure that seating will be available.

Dated: June 14, 1991.

C. Edward Dillery,

*Executive Director, Task Force on U.S. Government, International Broadcasting.*

[FR Doc. 91-14745 Filed 6-19-91; 8:45 am]

BILLING CODE 4710-10-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

[CGD1 91-059]

#### New York Harbor Traffic Management Advisory Committee; Meeting

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. I), notice is hereby given of a meeting of the New York Harbor Traffic Management Advisory Committee to be held on July 18, 1991, in the Conference Room,

second floor, U.S. Coast Guard Marine Inspection Office, Battery Park, New York, beginning at 10 a.m.

The agenda for this meeting of the New York Harbor Traffic Management Advisory Committee is as follows:

1. Introductions.
2. Update of Marine Events.
3. Update of dredging operations in New York Harbor.
4. Update on Vessel Traffic Service.
5. Topics from the floor.
6. Review of agenda topics and selection of date for next meeting.

The New York Harbor Traffic Management Advisory Committee has been established by Commander, First Coast Guard District to provide information, consultation, and advice with regard to port development, maritime trade, port traffic, and other maritime interests in the harbor. Members of the Committee serve voluntarily without compensation from the Federal Government.

Attendance is open to the interested public. With advance notice to the Chairperson, members of the public may make oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Director no later than one day before the meeting. Any member of the public may present a written statement to the Committee at that time.

#### FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander J.E. Bussey, USCG, Executive Secretary, NY Harbor Traffic Management Advisory Committee, Vessel Traffic Service, Building 333 Third floor, Governors Island, New York, NY 10004-5070; or by calling (212) 668-7429.

Dated: June 3, 1991.

R.I. Rybacki,

*Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.*

[FR Doc. 91-14702 Filed 6-19-91; 8:45 am]

BILLING CODE 4910-14-M

### Federal Highway Administration

#### Environment Impact Statement; Cooper Landing, AL

**AGENCY:** Federal Highway Administration (FHWA), Alaska Department of Transportation and Public Facilities (ADOT&PF).

**ACTION:** Notice of Intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project near Cooper Landing, Alaska.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Steve Moreno, Field Operations Engineer, Alaska Division FHWA, Post Office Box 21648, Juneau, Alaska, 99802-1648, Telephone (907) 586-7428; Mr. Hank Wilson, P.E., Project Manager, Preliminary Design and Environmental, ADOT&PF, Post Office Box 196900, Anchorage, Alaska 99519-6900, Telephone (907) 266-1581.

**SUPPLEMENTARY INFORMATION:** The FHWA in cooperation with ADOT&PF is currently preparing a Draft Environmental Impact Statement (DEIS) and section 4(f) Evaluation, in accordance with title 23 CFR part 771, for the Sterling Highway, MP 37 to 60 (Project F-021-2[15]), in the Kenai Peninsula Borough in Southcentral Alaska.

The highway provides the only road linking western Kenai Peninsula communities, including Kenai, Soldotna, Homer, and Seldovia, with the remainder of the state. Within the project area is the community of Cooper Landing, the Chugach National Forest, the Kenai River Special Management Area, the Squilantnu Archaeological District, and the Kenai National Wildlife Refuge.

The proposed action would reconstruct the 22-mile segment of the Sterling Highway between the Seward Highway junction and the Skilak Lake Road. Alternatives under evaluation are: No-Build, Reconstruction of the Existing Alignment, and two realignments to avoid unstable slopes and valuable resources along the existing highway.

The Quartz Creek Alternative is an approximate 4.2-mile realignment which would depart from the Seward Highway at MP 38, north of the existing Sterling Highway junction, and traverse the south side of Quartz Creek Valley, merging with the Sterling Highway near MP 40.

The Juneau Creek Alternative would depart from the Sterling Highway above Kenai Lake, near MP 47. This 11.4-mile realignment would follow along a bench north of Cooper Landing, crossing Juneau Creek, and merge with the Sterling Highway at approximately MP 55.

Land from the Kenai National Wildlife Refuge, established under the Alaska National Interest Lands Conservation Act (ANILCA), would be involved with this reconstruction project. Right-of-Way acquisition for transportation purposes is subject to requirements established under ANILCA Title 50 CFR part 36 for compliance with the National



Environmental Policy Act (NEPA) Title 40 CFR parts 1500 to 1508.

The U.S. Department of the Interior, Fish and Wildlife Service, Regional Administrator has agreed to combine the environmental requirements imposed by ANILCA with the 23 CFR part 771 by designating the FHWA as the lead agency for compliance with NEPA. The FHWA hereby provides notice of the proposed action.

Since 1978, ADOT&PF has been evaluating the subject project and published a DEIS/4(f) in 1982. However, due to environmental issues such as the creation of the Kenai River Special Management Area in June 1984, which put the river under the jurisdiction of the Alaska State Park System, and the discovery of additional prehistoric cultural sites, it was determined that additional alternatives should be evaluated and a new DEIS prepared.

Changes since the 1982 DEIS have been brought to the attention of the public. The scoping process included a Sterling Highway newsletter (September 3, 1985); letters to agencies (May 13, 1986) and local organizations (June 10, 1986); a notice to the *Federal Register* (FR Doc. 86-23178, June 25, 1986); a meeting with interested agencies (August 12, 1986); and public information meetings in Cooper Landing (September 4, 1986) and Anchorage (October, 21, 1986).

Comments and suggestions are invited from all interested parties and should be directed to the FHWA or ADOT&PF at the addresses provided above. The U.S. Army Corps of Engineers, U.S. Forest Service, Alaska Department of Fish and Game, and the Alaska Department of Natural Resources—Division of Parks, have been requested to participate as Cooperating Agencies in accordance with 40 CFR 1501.6.

[Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.]

Issued on: May 21, 1991.

Robert E. Ruby,

*Division Administrator, Federal Highway Administration.*

[FR Doc. 91-14698 Filed 6-17-91; 8:45 am]

BILLING CODE 4910-22-M

## National Highway Traffic Safety Administration

[Docket No. 91-28; Notice 01]

### Insurer Reporting Requirements; Reports on Section 612 of the Motor Vehicle Theft Law Enforcement Act of 1984

**AGENCY:** National Highway Traffic Safety Administration, NHTSA, DOT.

**ACTION:** Notice of availability.

**SUMMARY:** This notice announces publication by NHTSA of two reports. Section 612(b) of Title VI of the Motor Vehicle Information and Cost Savings Act (MVICSA, Pub. L. 93-513) requires this information be periodically compiled and published by the agency in a form that will be helpful to the public, including Federal, State, and local police, and Congress. The two reports are for reporting years 1986 and 1987. These reports cover section 612 which provides information on theft and recovery of vehicles; rating rules and plans used by motor vehicle insurers to reduce premiums due to a reduction in motor vehicle thefts; and actions taken by insurers to assist in deterring thefts.

The agency published a notice in the *Federal Register* on February 19, 1988, (53 FR 5076) announcing the availability of the first of these reports for reporting period 1985.

**ADDRESSES:** Interested persons may obtain a copy of the Section 612 informational report by contacting the Docket Section, NHTSA, Room 5109, 400 Seventh Street, SW., Washington, DC 20590 (Docket hours are from 8 a.m. to 4 p.m., Monday through Friday.) Requests should refer to Docket No. 91-28; Notice 01.

#### FOR FURTHER INFORMATION CONTACT:

Barbara Gray, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202-366-1740).

**SUPPLEMENTARY INFORMATION:** The Motor Vehicle Theft Law Enforcement Act of 1984 (Theft Act) was implemented to enhance detection and prosecution of motor vehicle theft (Pub. L. 98-547). The Theft Act added a new title VI to the Motor Vehicle Information and Cost Savings Act, which requires the Secretary of Transportation to issue a theft prevention standard for identifying major parts of certain high-theft lines of passenger cars. The Theft

Act also addressed several other actions to reduce motor vehicle theft, such as: Increased criminal penalties for those who traffic in stolen vehicles and parts; curtailment of the exportation of stolen motor vehicles and off-highway mobile equipment; establishment of penalties for dismantling vehicles for the purpose of trafficking in stolen parts; and development of ways of encourage decreases in premiums charged consumers for motor vehicle theft insurance.

Title VI was designed to impede the theft of motor vehicles by creating a theft prevention standard which requires manufacturers of designated high-theft car lines to mark or inscribe them with a vehicle identification number. The theft standard became effective in Model Year 1987 for designated high-theft car lines.

Section 612 of the Theft Act requires subject insurers or designated agents to report annually to the agency on theft and recovery of vehicles; rating rules and plans used by insurers to reduce premiums due to a reduction in motor vehicle thefts; and actions taken by insurers to assist in deterring thefts. Rental and leasing companies also are required to provide annual theft reports to the agency.

The annual insurer reports provided under section 612 of the Theft Act are intended to aid in implementing the Theft Act and fulfilling the Department's requirements to report to the public the results of the insurer reports. The first annual insurer reports, referred to as the Section 612 Report on Motor Vehicle Theft, was prepared by the agency and issued in December 1987. A notice announcing the availability of the first report was published in the *Federal Register* February 19, 1988. The report included theft and recovery data by vehicle type, make, line, and model which are tabulated by insurance company, State, and rental and leasing companies. Comprehensive premium information for each of the reporting insurance companies was also included. The second and third reports disclose the same subject information and follow the same reporting format.

Issued on: June 14, 1991.

Stanley R. Scheiner,  
*Acting Associate Administrator for Rulemaking.*

[FR Doc. 91-14648 Filed 6-19-91; 8:45 am]

BILLING CODE 4910-59-M



# Sunshine Act Meetings

Federal Register

Vol. 56, No. 119

Thursday, June 20, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## FEDERAL ELECTION COMMISSION

**DATE AND TIME:** Tuesday, June 25, 1991, 10:00 a.m.

**PLACE:** 999 E Street, N.W., Washington, DC.

**STATUS:** This Meeting Will Be Closed to the Public.

### ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration. Internal personnel rules and procedures or matters affecting a particular employees.

**DATE AND TIME:** Thursday, June 27, 1991, 10:00 a.m.

**PLACE:** 999 E Street, N.W., Washington, D.C. (Ninth Floor).

**STATUS:** This Meeting Will Be Open to the Public.

### ITEMS TO BE DISCUSSED:

Presidential Primary Matching Fund

Submission and Certification Procedures: Notice of Proposed Rulemaking. (Continued from meeting of June 19, 1991, if necessary). Proposed Letter to Honorable Nicholas F. Brady. (Continued from June 19, 1991, if necessary).

Presidential Primary and General Election Regulations: Final Rules and Explanation and Justification. (Continued from June 19, 1991, if necessary).

Administrative Matters

### PERSON TO CONTACT FOR INFORMATION:

Mr. Fred Eiland, Press Officer.  
Telephone: (202) 376-3155.

Delores Harris,

Administrative Assistant, Office of the Secretariat.

[FR Doc. 91-14796 Filed 6-18-91; 11:15 am]

BILLING CODE 6715-01-M

## FEDERAL MARITIME COMMISSION

**TIME AND DATE:** 10:00 a.m., June 26, 1991.

**PLACE:** Hearing Room One, 1100 L Street, N.W., Washington, DC 20573-0001.

**STATUS:** Part of the meeting will be open to the public.

The rest of the meeting will be closed to the public.

### MATTER(S) TO BE CONSIDERED:

#### Portion Open to the Public

1. Report to the Commission in Fact Finding Investigation No. 19—Passenger Vessel Financial Responsibility Requirements.

#### Portion Closed to the Public

1. Report on Laws, Rules, Regulations, Policies and Practices of the People's Republic of China Affecting Shipping in the United States/PRC Trade.

### CONTACT PERSON FOR MORE

**INFORMATION:** Joseph C. Polking, Secretary, (202) 523-5725

Joseph C. Polking,

Secretary.

[FR Doc. 91-14868 Filed 6-18-91; 3:31 pm]

BILLING CODE 6730-01-M

## BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

**TIME AND DATE:** 10:00 a.m., Wednesday June 26, 1991.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

**STATUS:** Closed.

### MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

### CONTACT PERSON FOR MORE

**INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: June 18, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-14867 Filed 6-18-91; 3:31 pm]

BILLING CODE 6210-01-M

## POSTAL RATE COMMISSION

**TIME AND DATE:** 10:00 a.m., Wednesday, July 24, 1991.

**PLACE:** Commission Conference Room, 1333 H Street, N.W., Washington, D.C., 20268-0001.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** To discuss and vote on the Postal Rate Commission Budget for FY 1992.

### CONTACT PERSON FOR MORE

**INFORMATION:** Charles L. Clapp, Secretary, Postal Rate Commission, Room 300, 1333 H Street, N.W., Washington, D.C. 20268-0001, Telephone (202) 789-6840.

Charles L. Clapp,

Secretary.

[FR Doc. 91-14869 Filed 6-18-91; 3:31 pm]

BILLING CODE 7710-FW-M

## SECURITIES AND EXCHANGE COMMISSION

### "FEDERAL REGISTER" CITATION OF

**PREVIOUS ANNOUNCEMENT:** [56 FR 27998, June 18, 1991].

**STATUS:** Closed meeting.

**PLACE:** 450 Fifth Street, N.W., Washington, D.C.

**DATE PREVIOUSLY ANNOUNCED:** Thursday, June 13, 1991.

**CHANGE IN THE MEETING:** Additional meeting.

The following item will be considered at a closed meeting on Tuesday, June 18, 1991, at 5:30 p.m.:

Opinion.

Commissioner Fleischman, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Edward Pittman at (202) 272-2400.

Dated: June 18, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-14885 Filed 6-18-91; 4:04 pm]

BILLING CODE 8010-01-M







# Federal Register

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Thursday  
June 20, 1991

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## Part II

### Department of the Interior

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Surface Mining Reclamation and  
Enforcement Office

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30 CFR Part 722, et al.

Surface Coal Mining and Reclamation  
Operations; Initial Regulatory Program  
and Permanent Regulatory Program;  
Service of Documents; Final Rule



## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 722, 723, 724, 843, 845, and 846

RIN 1029-AB41

## Surface Coal Mining and Reclamation Operations; Initial Regulatory Program and Permanent Regulatory Program; Service of Documents

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) of the U.S. Department of the Interior (DOI) is revising its Initial and Permanent Regulatory Program rules governing service of process to provide for increased flexibility and uniformity in the methods of service of process for notices of violation, cessation and show cause orders, and proposed civil penalty and individual civil penalty assessments.

EFFECTIVE DATE: July 22, 1991.

**FOR FURTHER INFORMATION CONTACT:** George M. Stone, Jr., Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, DC 20240; telephone (202) 208-2550 (Commercial) or 268-2550 (FTS).

**SUPPLEMENTARY INFORMATION:**

## I. Background

## II. Discussion of Final Rule and Comments

## III. Procedural Matters

## I. Background

Section 521 of the Act provides authority to the Secretary of the Interior and his authorized representatives to issue citations for violations of the Act. The regulations governing the service of process for notices and orders are found at 30 CFR parts 722 and 843. Part 722 contains the Initial Program regulations which were promulgated on December 13, 1977 (42 FR 62639). Part 843 contains the Permanent Program regulations which were first promulgated on March 13, 1979 (44 FR 14902), and subsequently revised on August 16, 1982 (47 FR 35620). The regulations governing service of process of proposed civil penalty assessments are found at 30 CFR parts 723 and 845. Part 723 contains the Initial Program regulations which were first promulgated on December 13, 1977 (42 FR 62639) and subsequently revised on September 4, 1980 (45 FR 58780). Part 845 contains the Permanent Program regulations which were first promulgated on March 13, 1979 (44 FR

14902) and subsequently revised on August 16, 1982 (47 FR 35620). The regulations governing service of process of proposed individual civil penalty assessments are found at 30 CFR parts 724 and 846. Parts 724 and 846 contain the Initial and Permanent Program regulations respectively which were promulgated on February 8, 1988 (53 FR 3663).

On September 27, 1990 (55 FR 39580), OSM proposed two sets of revisions to its rules.<sup>1</sup> The first set of revisions at 30 CFR 723.13(b)/845.13(b), 723.15(b)/845.15(b), and 843.14(a) were proposed in order to provide for consistent phraseology within each of the rules by replacing the term "permittee" with the phrase "person to whom the notice or order was issued" or "person to whom it (the notice or order) was issued".

The second set of revisions at 30 CFR 722.14(a)/843.14(a), 723.17(b)/845.17(b) and 724.17(c)/846.17(c) were proposed in order to provide increased flexibility within each rule and uniformity among the rules regarding the methods of acceptable service of process. The previous versions of these rules all varied in the methods by which their service of process was performed. Sections 722.14/843.14 provided for service by personal delivery or by certified mail. Sections 723.17/845.17 provided for service by only certified mail. Sections 724.17/846.17 provided that service would be sufficient if it satisfies Rule 4 of the Federal Rules of Civil Procedures for service of a summons and complaint (hereinafter Rule 4).

OSM solicited public comments on the proposed revisions. The comment period closed November 27, 1990 with three commenters responding. No request was received for a public hearing and none was held.

After careful review of the comments received, OSM has decided to withdraw from this rulemaking the first set of proposed revisions relating to consistent phraseology. OSM is adopting as final rules both the second set of proposed revisions relating to methods for service of process as well as conforming changes to the service rules relating to refusal of service. These conforming changes will be discussed below at II.B.1.

<sup>1</sup> For ease of reference, the respective Initial Program and Permanent Program sections are cited together in this preamble. For instance, references to 30 CFR 723.13(b) and 845.13(b) will be cited as 30 CFR 723.13(b)/845.13(b).

## II. Discussion of Final Rule and Comments

## A. Withdrawal of Proposed Revisions to §§ 723.13(b)(3)(ii)(B)/845.13(b)(3)(ii)(B), 723.15(b)(2)/845.15(b)(2), and 843.14(a)(2)(2)—Consistent Phraseology

OSM proposed revisions to these sections which would have changed the term "permittee" to either "person to whom the notice or order was issued" or "person to whom it (the notice or order) was issued." The intent of such changes was to make consistent the phraseology within each section and to more accurately identify those parties with actual on-site capacity to prevent or abate violations.

Each of the three commenters expressed concerns over the proposed revisions. The fundamental concern of two commenters was that the proposed rule improperly expanded the class of persons who may be assessed civil penalties beyond permittees to include operators as well as any other person to whom a notice or order might be issued. One of these commenters stated that such assessments would be contrary to both: (a) The provisions of Section 518(a) of the Act which limits civil penalties to violations committed by permittees, and (b) the principle that civil penalties cannot be assessed against a class of individuals not already subject to enforcement under Section 521(a) which speaks only of permittee violations of permit conditions or the Act.

A related concern was that civil penalty assessments against permittees, operators, and other mine-site parties would allow for "double recover" of penalties, for which no statutory authority was seen to exist.

The same commenter also asserted that OSM had cited no credible evidence of the need for the rulemaking and had failed to document any specific enforcement problem arising from the implementation of the current regulations. The commenter stated that if the purpose of the rule was to ensnare "wildcat" or "contract" operators, OSM had failed to provide any analysis to show why the term "permittee," as defined by 30 CFR 701.5, had not proven sufficiently broad to implement the provisions of Section 518 effectively.

Conversely, another commenter stated that the proposed revisions would appear to authorize a violation or civil penalty assessment not to be issued against a permittee, thereby conflicting with section 521(a) of the Act which holds permittees ultimately responsible for violations on surface coal mining operations.



The final commenter was concerned that the proposed revisions would adversely affect the individual civil penalty protections provided by section 518(f) of the Act and "refine(d)" by the decisions in *United States v. Dix Fork Coal Co.*, 692 F.2d 436 (6th Cir. 1982), and *United States v. Daugherty*, 599 F. Supp. 671 (1984).

In response to the comment that no compelling regulatory need was presented in the proposed rulemaking for replacing the term "permittee" with either the phrase "person to whom the notice or order was issued" or "person to whom it (the notice or order) is issued," OSM would stress that these revisions were only intended to make consistent the phraseology within the affected sections and to more accurately identify those parties with actual on-site capacity to prevent or correct violations. Nonetheless, because of the commenter concerns engendered by the proposed revisions, OSM has decided to withdraw them from the current rulemaking. The longstanding references to "permittee" in the cited sections will remain as they were.

OSM wishes to make clear that the withdrawn revisions were never intended as a means of changing the scope of the agency's enforcement authority. The scope of that authority is established by the enforcement provisions of section 521 of the Act and its implementing regulations at 30 CFR parts 722/843, and not the penalty provisions of section 518 of the Act and its implementing regulations at 30 CFR parts 723/845. It is section 521 and 30 CFR parts 722/843, not section 518 and parts 723/845, which define the class of persons against whom enforcement actions could be taken and, therefore, those who would be subject to civil penalties. Accordingly, the withdrawn revisions to 30 CFR parts 723/845 would have neither limited nor expanded the class of affected persons as asserted by commenters. The withdrawn revisions to 30 CFR part 843 dealt with alternative service of process and would also have neither limited nor expanded the class of persons subject to civil penalty assessments.

With regard to OSM's enforcement scheme, OSM will continue to issue notices of violation under 30 CFR 722.11-12/843.12 to the permittee and any other persons responsible for compliance with performance standards applicable to the operation. As it has in the past, OSM will cite operators when they are deemed responsible for operations. Such has always been the case, for example, with "wildcat" operations and those operations abusing

the two-acre exemption. In those instances when both a permittee and an operator are cited for a single violation, it is the longstanding policy of OSM that both parties are jointly and severally liable for the penalty amount associated with that violation. Under such a policy, there would not be a "double recovery" of the penalty amount.

OSM also wishes to make clear that the withdrawn revisions were never intended to adversely affect the individual civil penalty provisions established by section 518(f) of the Act. The individual civil penalty provisions of section 518(f) are implemented at 30 CFR parts 724/846. Proposed revisions to 30 CFR part 843 and 30 CFR parts 723/845 would not, therefore, have affected those provisions. Neither would the revisions have conflicted with the court decisions cited by the commenter.

*B. Sections 722.14/843.14, 723.17/845.17 and 724.17/846.17*

*1. Service of Process*

Final 30 CFR 722.14/843.14, 723.17/845.17, and 724.17/846.17 are adopted as proposed to provide for increased flexibility and uniformity in the methods of service of process for notices of violation, cessation and show cause orders, and proposed civil penalty assessments. Final 30 CFR 722.14/843.14, 723.17/845.17, and 724.17/846.17 combine all of the methods of service of the previous rules to allow service under each section by either personal delivery, certified mail, or any other alternative means consistent with rule 4 of the Federal Rules of Civil Procedure for service of summons and complaint. As will be discussed below, these final rules also include conforming changes to their provisions governing refusal of service.

Three commenters submitted comments on the proposed rule. One commenter stated that the proposed revision to 30 CFR 843.14(a)(2) allowing for alternative service on "any person" did not guarantee that the permittee would be notified in time to correct the violation or request administrative review before the Department of the Interior (emphasis added).

OSM does not agree with this conclusion. The revision to 30 CFR 843.14(a)(2) does not allow for alternative service on any person, but rather on "the person to whom it [the notice or order] is issued or his or her designated agent." Such language is consistent both with that of 30 CFR 843.14(a)(1) and with its Initial Program counterpart at 30 CFR 722.14(a)(2). Moreover, 30 CFR 722.14(a)/843.14(a) both require that citations be served

"promptly"; and under 43 CFR 4.1162(a), a permittee's time for requesting administrative review does not begin to run until service has been effected. Thus, the commenter's concern about delay in service is unfounded.

Another commenter questioned whether the use of "regular" mail without a record of receipt might prove problematic in demonstrating proof of service. Presumably the commenter is referring to the service by first-class mail allowed by Section (c)(1)(C)(ii) of rule 4, since the other service by mail prescribed in this rulemaking is by certified mail.

The use of first-class mail will not create a problem in demonstrating proof of service. Section (c)(2)(C)(ii) of rule 4 requires that an acknowledgement form shall be sent with the service of process. This acknowledgement form is to be returned within 20 days after the date of mailing. If no acknowledgement of service is received by the sender within 20 days after the date of mailing, the above-referenced section specifies that service shall be by the personal delivery provisions of subsections (d)(1) and (d)(3) of rule 4.

A commenter asserted that service of process prescribed under the proposed rules should be limited to methods available under rule 4 so as to both prevent duplication between the "personal service" provided by the prior rules and the "personal service" of rule 4 and to avoid confusion as to the limits of permissible service.

OSM does not agree with the commenter's proposal. Its effect would be to limit the service of process in final 30 CFR parts 722/843, 723/845, and 724/846 to rule 4 procedures previously provided only in part 724/846. Such reliance upon rule 4 procedures would have foreclosed both service certified mail and the personal service previously provided by the parts 722/843 and 723/845.

The personal service provided by the prior rules is not duplicative of rule 4 personal service as asserted by the commenter. For example, under the procedures previously employed by OSM under 30 CFR 722.14(a)(2), and 843.14(a)(2), the personal service of a notice or order issued to a corporate permittee was considered complete, for instance, upon tender of such notice or order to a secretary working in the office of the permittee. Under section (d)(3) of rule 4, personal service to a corporate permittee would be complete upon tender of the notice or order to an officer, a managing or general agent, or to any other agent authorized by appointment or law to receive service of



process. The commenter's proposal limiting service to rule 4 procedures would have required, therefore, the elimination of the personal and certified mail methods of service of process available under prior rules. Such a result works against the flexibility of service intended by this rulemaking.

OSM disagrees with the commenter's contention that this rulemaking will cause confusion as to the limits of permissible service because it allows for service of process by either personal service, certified mail or any other alternative method consistent with rule 4. Each of these methods of service is taken from a prior rule with established limits of permissible service. Methods of service which individually did not prove confusing should not prove confusing when provided for in the alternative.

## 2. Refusal of Service

In the process of reviewing the proposed rules and comments thereto, OSM determined that conforming changes were also needed to the provisions dealing with refusal of service to provide both consistency within and uniformity among the respective service rules.

Three sets of rules are involved in these conforming changes. Two sets, at 30 CFR 722.14(a)(2)/843.14(a)(2) and 723.17(b)/845.17(b)(1), already have provisions governing the refusal of tendered service documents. These are longstanding provisions of both the Initial and Permanent Program rules and are consistent with the line of cases, including *U.S. v. Pryor Bolton*, 781 F.2d 528 (6th Cir. 1985), which held adequate service to exist even where there was refusal to accept delivery. Conforming changes are needed to the refusal provisions of these two sets of rules to reflect the previously discussed changes made to their methods of service of process. The third set of rules at 30 CFR 724.17(c)/846.17(c) did not have provisions governing the refusal of tendered service documents. Refusal provisions are needed to conform these rules to the other service rules which do contain such provisions.

The last sentence of both previous and proposed 30 CFR 722.14(a)(2)/843.14(a)(2) provided that "[s]ervice shall be complete upon tender of the notice or order or of the mail and shall not be deemed incomplete because of refusal to accept." Under this final rule, it will read "[s]ervice shall be complete upon tender of the notice or order or of the *certified* mail and shall not be deemed incomplete because of refusal to accept." (Emphasis added.) The underlined word "certified" is added not as a substantive change but rather to

conform the quoted passage to other provisions of both prior and proposed Sections 722.14(a)(2)/843.14(a)(2) which provided that service shall be by "certified mail". Under both these rules, refusal of tendered mail constituted service. The "certified" qualifier in the final rules will also serve to distinguish that type of mail service from the First Class mail service now allowed under final Sections 723.14(a)(2)/845.14(a)(2) through alternative Rule 4 procedures. The refusal of First Class mail is not covered by the final rule.

Previous 30 CFR 723.17(b)/845.17(b)(1) provided that "[i]f the mail is tendered \* \* \* and he or she refuses to accept delivery of or to collect such mail, the requirement of this paragraph shall be deemed to have been complied with upon such tender." Final 723.17(b)/845.17(b)(1) will provide that "[i]f a copy of the proposed assessment and work sheet or certified mail is tendered \* \* \* and he or she refuses to accept delivery of or to collect such documents, the requirements of this paragraph shall be deemed to have been complied with upon such tender." (Emphasis added.) The underlined phrase "a copy of the proposed assessment and work sheet or certified mail" is added to conform the quoted passage to other provisions of proposed and final 30 CFR 724.17(b) and 845.17(b) which provide that "[t]he Office shall serve a copy of the proposed assessment and of the work sheet \* \* \* on the person to whom the notice or order was issued, by certified mail, or by an alternative means consistent with \* \* \* Rule 4 of the Federal Rules of Civil Procedure \* \* \*". Service of the copy of the proposed assessment and worksheet was not expressly provided for in the refusal of tender sections of the previous rules.

The "certified" qualifier will again serve to distinguish that type of mail service comprehended by the refusal of service provisions of §§ 723.17(b) and 845.17(b)(1) from the First Class mail service also allowed by the final rules under alternative rule 4 procedures. The word "documents" replaces the word "mail" found in both the proposed and final rules and reflects that either a copy of the proposed assessment and work sheet or the certified mail containing the assessment documents may be tendered under specified circumstances to complete service of process.

The last sentence of proposed 30 CFR 724.17(c)/846.17(c) will also be revised in the final rule to more precisely conform to the refusal provisions of the other service rules. The previous version of 30 CFR 724.17(c)/846.17(c) did not contain a refusal of service provision. Proposed 724.17(c)/846.17(c) provided

that "[i]f the mail is tendered at the individual's dwelling or usual place of abode with some person of suitable age and discretion then residing therein and that person refuses to accept delivery, the requirements of this paragraph shall be deemed to have been complied with upon such tender." This passage depicts a scenario not found in the other service rules. Final 724.17(c)/846.17(c) will instead state that "[s]ervice shall be complete upon tender of the notice of proposed assessment and included information or the certified mail and shall not be deemed incomplete because of refusal to accept." This language is modeled on the refusal of service provisions of final 30 CFR 722.14(a)(2)/843.14(a)(2). It is consistent with the refusal of service provisions of final 30 CFR 723.17(b) and 843.17(b)(1), and will contribute to increased uniformity of language among the service rules. Tender of the documents at a person's dwelling or usual place of abode to a person of suitable age and discretion then residing therein will still suffice where such service is authorized by Rule 4(d)(1).

## III. Procedural Matters

### *Effect of the Rule in Federal Program States and on Indian Lands*

The rule will apply, through cross-referencing, to the following States with Federal programs: California, Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington. The Federal programs for these States appear at 30 CFR parts 905, 910, 912, 921, 922, 933, 937, 939, 941, 942, and 947, respectively. The rule will also apply through cross-referencing to Indian lands under the Federal program for Indian lands as provided in 30 CFR part 750. No comments were received concerning unique conditions in any of these States or on Indian lands which would require changes to the national rules as specific amendments to any or all of the Federal programs.

### *Effect of the Rule in States With Primacy*

Section 518(i) of the Act and the Federal regulations at 30 CFR 840.13(c) require approved State programs to contain procedures the same or similar to the provisions of section 518 of the Act and consistent with those of 30 CFR parts 843, 845, and 846. States which desire more flexibility in their method of service of documents may desire to amend their programs but are not bound to do so.



**Federal Paperwork Reduction Act**

This rule does not contain collections of information which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

**Executive Order 12291**

The Department of the Interior has examined the rule according to the criteria of Executive Order 12291 (February 17, 1981) and has determined that it is not major and does not require a regulatory impact analysis.

**Regulatory Flexibility Act**

The Department of the Interior has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that the rule will not have a significant economic impact on a substantial number of small entities. The rule merely allows for greater flexibility of service of documents.

**National Environmental Policy Act**

This rule has been reviewed by OSM and it has been determined to be categorically excluded from the National Environmental Policy Act (NEPA) process in accordance with the Departmental Manual (516 DM 2, Appendix 1.10) and the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR 1507.3).

**Author**

The principal author of this rule is John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240; Telephone: (202) 208-2550 (Commercial) or 268-2550 (FTS).

**List of Subjects****30 CFR Part 722**

Law enforcement, Public health, Safety, Surface mining, Underground mining.

**30 CFR Part 723**

Administrative practice and procedure, Penalties, Surface mining, Underground mining.

**30 CFR Part 724**

Administrative practice and procedure, Penalties, Surface mining, Underground mining.

**30 CFR Part 843**

Administrative practice and procedure, Law enforcement, Reporting and recordkeeping requirements, Surface mining, Underground mining.

**30 CFR Part 845**

Administrative practice and procedures, Law enforcement, Penalties, Reporting and recordkeeping requirements, Surface mining, Underground mining.

**30 CFR Part 846**

Administrative practice and procedure, Penalties, Surface mining, Underground mining.

Accordingly, 30 CFR parts 722, 723, 724, 843, 845, and 846 are amended as set forth below:

Dated: May 14, 1991.

Dave O'Neal,

Assistant Secretary, Land and Minerals Management.

**Subchapter B—Initial Program Regulations****PART 722—ENFORCEMENT PROCEDURES**

1. The authority citation for Part 722 continues to read as follows:

Authority: Secs. 201, 501, and 502, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201).

2. Section 722.14 is amended by revising paragraph (a)(2) to read as follows:

**§ 722.14 Service of notices of violation, cessation orders, and orders to show cause.**

(a) \* \* \*

(2) As an alternative to paragraph (a)(1) of this section, service may be made by sending a copy of the notice or order by certified mail or by hand to the person to whom it is issued or his or her designated agent, or by any alternative means consistent with the rules governing service of a summons and complaint under rule 4 of the Federal Rules of Civil Procedure. Service shall be complete upon tender of the notice or order or of the certified mail and shall not be deemed incomplete because of refusal to accept.

\* \* \* \* \*

**PART 723—CIVIL PENALTIES**

3. The authority citation for part 723 continues to read as follows:

Authority: Surface Mining Control and Reclamation Act of 1977, Secs. 201, 501, 518 (30 U.S.C. 1211, 1251, 1268) and Pub. L. 100-34.

3a. Section 723.17 is amended by revising paragraph (b) to read as follows:

**§ 723.17 Procedures for assessment of civil penalties.**

(a) \* \* \* \* \*

(b) The Office shall serve a copy of the proposed assessment and of the work sheet showing the computation of

the proposed assessment on the person to whom the notice or order was issued, by certified mail, or by any alternative means consistent with the rules governing service of a summons and complaint under Rule 4 of the Federal Rules of Civil Procedure, within 30 days of the issuance of the notice or order. If a copy of the proposed assessment and work sheet or the certified mail is tendered at the address of that person set forth in the sign required under 30 CFR 715.12(b) or at any address at which that person is in fact located, and he or she refuses to accept delivery or to collect such documents, the requirements of this paragraph shall be deemed to have been complied with upon such tender.

\* \* \* \* \*

**PART 724—INDIVIDUAL CIVIL PENALTIES**

4. The authority citation for part 724 continues to read as follows:

Authority: Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*); and Pub. L. 100-34.

5. Section 724.17 is amended by revising paragraph (c) to read as follows:

**§ 724.17 Procedure for assessment of individual civil penalty.**

\* \* \* \* \*

(c) *Service.* For purposes of this section, service shall be performed on the individual to be assessed an individual civil penalty, by certified mail, or by any alternative means consistent with the rules governing service of a summons and complaint under rule 4 of the Federal Rules of Civil Procedure. Service shall be complete upon tender of the notice of proposed assessment and included information or of the certified mail and shall not be deemed incomplete because of refusal to accept.

**Subchapter L—Permanent Program Inspection and Enforcement Procedures****PART 843—FEDERAL ENFORCEMENT**

6. The authority citation for part 843 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, as amended; and Pub. L. 100-34.

7. Section 843.14 is amended by revising paragraph (a)(2) to read as follows:

**§ 843.14 Service of notices of violation, cessation orders, and show cause orders.**

(a) \* \* \*

(2) As an alternative to paragraph (a)(1) of this section, service may be made by sending a copy of the notice or



order by certified mail or by hand to the permittee or his or her designated agent, or by any means consistent with the rules governing service of a summons and complaint under rule 4 of the Federal Rules of Civil Procedure. Service shall be complete upon tender of the notice or order or of the certified mail and shall not be deemed incomplete because of refusal to accept.

\* \* \*

#### PART 845—CIVIL PENALTIES

8. The authority citation for part 845 continues to read as follows:

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*, Pub. L. 100-202, and Pub. L. 100-446.

9. Section 845.17 is amended by revising paragraphs (b) introductory text and (b)(1) to read as follows:

##### § 845.17 Procedures for assessment of civil penalties.

\* \* \*

(b) The Office shall serve a copy of

the proposed assessment and of the work sheet showing the computation of the proposed assessment on the person to whom the notice or order was issued, by certified mail, or by any alternative means consistent with the rules governing service of a summons or complaint under rule 4 of the Federal Rules of Civil Procedure, within 30 days of the issuance of the notice or order.

(b)(1) If a copy of the proposed assessment and work sheet or the certified mail is tendered at the address of that person required under 30 CFR 816.11, or at any address at which that person is in fact located, and he or she refuses to accept delivery of or to collect such documents, the requirements of this paragraph shall be deemed to have been complied with upon such tender.

\* \* \*

#### PART 846—INDIVIDUAL CIVIL PENALTIES

10. The authority citation for part 846 continues to read as follows:

Authority: Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*); Pub. L. 100-34.

11. Section 846.17 is amended by revising paragraph (c) to read as follows:

##### § 846.17 Procedure for assessment of individual civil penalty.

\* \* \*

(c) *Service.* For purposes of this section, service shall be performed on the individual to be assessed an individual civil penalty, by certified mail, or by any alternative means consistent with the rules governing service of a summons and complaint under rule 4 of the Federal Rules of Civil Procedure. Service shall be complete upon tender of the notice of proposed assessment and included information or of the certified mail and shall not be deemed incomplete because of refusal to accept.

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# Federal Register

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Thursday  
June 20, 1991

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## Part III

## Department of Transportation

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### Coast Guard

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33 CFR Part 1

46 CFR Parts 10 and 12

User Fees for Marine Licensing,  
Certification of Registry and Merchant  
Mariner Documentation; Proposed Rule



**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 1****46 CFR Parts 10 and 12****[CGD 91-002]****RIN 2115-AD72****User Fees for Marine Licensing, Certification of Registry and Merchant Mariner Documentation****AGENCY:** Coast Guard, DOT.**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In response to recent statutory requirements, the Coast Guard proposes to establish user fees for Coast Guard services related to merchant marine licenses, certificates of registry, and merchant mariner documents. The fees in this proposal are based on the way the Coast Guard presently conducts the merchant marine licensing and documentation activities and current costs of providing these Coast Guard services.

**DATES:** Comments must be received on or before August 5, 1991.

**ADDRESSES:** Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA-2/3406) (CGD 91-002), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

**FOR FURTHER INFORMATION CONTACT:** LT J.K. Gillespie, Planning Division (G-MP-1), Office of Marine Safety, Security, and Environmental Protection, (202) 267-6923.

**SUPPLEMENTARY INFORMATION:****Request for Comments**

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD 91-002) and the specific section of this proposal to which each comment applies, and give a reason for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under "ADDRESSES." If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the Federal Register.

**Drafting Information**

The principal persons involved in drafting this document are LT J.K. Gillespie, Project Manager, and C.G. Green, Project Counsel, Office of Chief Counsel.

**Background and Purpose**

The Omnibus Budget Reconciliation Act of 1990 (the Act) amended section 2110 of title 46, United States Code, to remove long-standing prohibitions against collecting certain user fees. Although, prior to amendment by the Act, section 2110 did not prohibit the Coast Guard from charging fees for merchant mariner documentation services, it did prohibit fees for "licensing of masters, mates, pilots, and engineers." The Coast Guard did not, therefore, exercise its authority to charge only one group of mariners out of all those receiving these Coast Guard services.

Section 2110 now requires the establishment and collection of user fees for Coast Guard services provided under subtitle II of title 46, United States Code. The Coast Guard must establish these fees in accordance with the criteria in section 9701 of title 31, United States Code (General User Fee Statute). The fees would not affect current Coast Guard appropriations. They would "be deposited in the general fund of the U.S. Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities."

Marine licensing and merchant mariner documentation, vessel documentation, commercial vessel inspections, and vessel plan review and equipment approval are program areas in subtitle II for which fees must be established. This proposal would establish user fees only for Coast Guard services relating to the issuance of merchant marine licenses, certificates of registry, and merchant mariner documents. Fees for other Coast Guard services in subtitle II of title 46, United States Code, will be established in separate rulemakings.

**General Discussion of the Proposal**

Section 2110 requires direct user fees be established for services provided by the Coast Guard under subtitle II of title 46, United States Code. To comply with this mandate, the Coast Guard proposes to amend 46 CFR parts 10 and 12 to establish user fees for specific activities conducted when individuals obtain a license, certificate of registry, or merchant mariner document.

Section 2110 allows adjustments of fees to accommodate changes in the cost of providing the services. The proposed fees are based on current costs and the way the Coast Guard presently conducts the merchant marine licensing and documentation program. The Coast Guard intends to review the fees annually to determine if adjustments or changes to the fees are necessary. The Coast Guard will revise these proposed fees when costs change because of inflation, deflation, or changes in the way the services are provided. New statutes, such as the Oil Pollution Act of 1990, may require the Coast Guard to establish new regulations or make substantive amendments to existing regulations. When this occurs, the Coast Guard will propose appropriate user fees in each rulemaking.

Section 2110 provides that the fee for a service may also include the cost of collecting the fee. The Coast Guard has not yet determined collection procedures for the proposed fees. However, the Coast Guard anticipates that, at a minimum, collecting fees at Regional Examination Centers (REC) will be needed because many licensing services are provided to "walk-in" applicants. This proposal includes estimated collection costs in the fees.

Section 2110 also provides authority to recover "appropriate collection and enforcement costs associated with delinquent payments of the fees." The Coast Guard may employ any government agency (Federal, State, or local) or a private enterprise or business (e.g., collection agency) to recover delinquent fees or civil penalty charges. Since the Coast Guard proposes to collect fees prior to the services being provided, delinquent payments should not occur in most cases.

Section 2110 allows exemption of certain persons from fees, "if in the public interest." While the Coast Guard does not now propose to exercise this authority, we are interested in comments on exemptions that could be in the public interest. One example might be for persons who, while not actively employed aboard vessels, choose to participate in a merchant



marine reserve program and, therefore, would be required to hold a marine license, certificate of registry, or merchant mariner document. Is it in the public interest to have a "pool" of qualified persons available during times of national emergency, and, if so, should exemptions from the proposed fees be established to encourage participation in a merchant marine reserve program? The public is invited to comment on this or similar reasons to establish "public interest" exemptions.

*Discussion of fees.* In developing the proposed fees, the Coast Guard reviewed all the specific licensing and merchant mariner documentation activities in 46 CFR parts 10 and 12. The process of obtaining a license or certificate of registry under part 10 and of obtaining a merchant mariner document under part 12 are generally similar in that there are three identifiable phases in the overall process: Evaluation of the application, examination of the applicant, and issuance of the license or document. The

Coast Guard chose to separate the process into these three phases for establishing user fees, as some applicants either do not complete the entire process or must repeat certain phases (e.g., examination). The Coast Guard, therefore, proposes that each fee be paid just prior to receiving the service, thus ensuring that applicants are not charged for a service not provided, but that they will be charged appropriate additional fees when a phase is repeated. We have summarized the proposed fees in Figure I.

FIGURE I.—PROPOSED USER FEES FOR MARINE LICENSES, CERTIFICATES OF REGISTRY, AND MERCHANT MARINER DOCUMENT ACTIVITIES

Category	Evaluation fee <sup>1</sup>	Examination fee	Issuance fee	Total <sup>2</sup>
<b>License</b>				
Upper Level.....	\$70 (\$17)	<sup>3</sup> \$225	\$35	\$330 (\$347)
Lower Level.....	65 (17)	<sup>3</sup> 80	35	180 (197)
Radio Officer.....	45 (17)	—	35	80 (97)
Renewals or Endorsements.....	45	55	<sup>4</sup> 35	135
<b>Certificate of Registry</b>				
Chief Purser, Purser, and Senior Assistant Purser.....	45 (17)	—	35	80 (97)
Junior Assistant Purser, Medical Doctor, and Professional Nurse.....	— (17)	—	35	35 (52)
<b>Merchant Mariner Document (MMD)</b>				
MMD Endorsed with Qualified Rating.....	60 (17)	40	35	135 (152)
MMD without Qualified Rating.....	— (17)	—	35	35 (52)
<b>Other Fees</b>				
Duplicate or Replacement of License, Certificate of Registry, or MMD <sup>5</sup> .....	—	—	35	35

<sup>1</sup> An additional \$17 charge for an FBI criminal record check would be added to the evaluation fee if the application is for an original license, original certificate of registry, or original merchant mariner document.

<sup>2</sup> Maximum totals—without and with an FBI criminal record check.

<sup>3</sup> For limited examinations administered for certain licenses, the proposed examination fee is \$55.

<sup>4</sup> This fee also applies to issuance of a renewal with a continuity endorsement issued under § 10.209(g).

<sup>5</sup> There is presently a \$10 fee in 33 CFR subpart 1.25 for a duplicate continuous discharge book or copies of certificates of discharge. The Coast Guard proposes to move this fee from 33 CFR subpart 1.25 to a section in 46 CFR part 12.

The proposed fees are based on the cost to the Coast Guard of providing the services. The Coast Guard incurs costs each time an individual is provided a service, regardless of the end result achieved by the individual. Thus, an individual who fails an examination and allowable retests must repeat the examination phase and pay another examination fee.

In 46 CFR parts 10 and 12, the Coast Guard proposes to define the term "evaluation" to make clear that the evaluation phase for which an applicant pays a fee is more than a review of an application form. The evaluation phase begins when the Coast Guard receives the application package. It includes establishing an individual's file, completing paperwork for a Federal Bureau of Investigation (FBI) criminal record check when required, searching through Coast Guard and other government records, making verifications, and conducting follow up phone calls. The evaluation phase is completed when the Coast Guard determines whether or not an applicant meets all the prerequisite requirements.

The evaluation fee would be paid when the individual submits the application package to the Coast Guard.

The next phase is examination. The Coast Guard does not propose to define the term "examination" since its use should be clearly understood within the existing and proposed regulations. The examination phase involves scheduling, proctoring, and grading examination sections, and notifying applicants of results.

The examination fee would be paid when an applicant reserves a place on a scheduled test date for examination sections administered at Regional Examination Centers (REC), or administered at other locations by Coast Guard traveling examination teams. This fee covers the administration of all sections of an examination required for a particular license or endorsement. The Coast Guard does not propose to charge a fee for necessary retests prior to the lapse period required in 46 CFR 10.217(a) (1) and (2). After a required lapse period, an applicant would have to begin the examination phase again and a new examination fee would be

assessed. If the applicant misses taking a scheduled examination, however, the Coast Guard will allow rescheduling of missed examination sections without an additional fee as long as the individual's application remains valid.

The last phase is issuance. The Coast Guard does not propose to define the term "issuance" since its use should be clearly understood within the existing and proposed regulations. The issuance phase includes preparing forms, reviewing, and signing of documents by appropriate REC personnel. The issuance fee would be paid before an individual receives the actual license, certificate of registry, or merchant mariner document.

There are several circumstances when the applicant would not be charged a fee for one or more of the three phases (i.e., evaluation, examination, and issuance). Under the criteria of the General User Fee Statute, it would be inappropriate for the Coast Guard to charge a fee for a service not provided.

An evaluation fee would not be required for all applicants. For example, a person applying for a radar observer



endorsement, who has successfully completed a Coast Guard-approved course, would not be assessed an evaluation fee. The Coast Guard also proposes no evaluation fee for certificates of registry for Junior Assistant Purser, Medical Doctor, or Professional Nurse; or for a merchant mariner document without a qualified rating endorsement. These activities do not require significant amounts of evaluation time. However, the Coast Guard will assess a \$17 fee for an original merchant mariner document or certificate of registry to cover the cost of a required FBI criminal record check.

There are no examination requirements for Radio Officer licenses; certificates of registry; merchant mariner documents not endorsed with a qualified rating; and some license endorsements. An example of an endorsement for which there would be no examination fee is a radar observer endorsement. An applicant who successfully completes a Coast Guard-approved radar observer qualification course is eligible for that endorsement.

If an examination is waived, then no examination fee would be assessed. For example, the Officer in Charge of Marine Inspection may waive the examination requirement for an endorsement to raise or remove horsepower limitations under 46 CFR 10.503(d).

The full examination fee proposed for upper level and lower level licenses would not be appropriate when an applicant needs only a partial or limited examination. Limited examinations have only one or two sections, and their administration is comparable with the time and effort required to administer the open book exercises for renewal of licenses. The Coast Guard, therefore, proposes a lesser fee for limited examinations. This fee would be the same as the examination fee for the open book exercise required in some cases for renewals. A limited examination is referred to in the regulations in 46 CFR 10.412, 10.418, 10.426, 10.429, 10.466 and 10.456. The Coast Guard also considers the examination referred to in 46 CFR 10.427 and 10.454 to be a limited examination.

The Coast Guard proposes to charge an issuance fee for all licenses, including licenses with a continuity endorsement, even though an applicant with this endorsement may not require an evaluation or examination and would not be assessed these other fees. The Coast Guard also proposes to charge an issuance fee for all certificates of registry, and merchant mariner documents (CG Form 2838) including temporary documents (CG Form 2838T).

However, for conversion of the temporary merchant mariner document to a permanent document, there would be no issuance fee. Additionally, consistent with proposed § 10.219 and existing § 12.02-23 of 46 CFR, no fee is proposed for issuance of a duplicate license, certificate of registry, or merchant mariner document when its loss is due to a shipwreck or other casualty described by these sections.

*Collection fees and penalties for failure to pay.* The Coast Guard is presently reviewing a variety of fee collection procedures in addition to having collection clerks at each REC. The Coast Guard is also considering alternatives to cash payment including checks, money orders, credit cards, and electronic payment procedures. Convenience to the applicant will be an important factor in selecting the procedures to be used. Although these administrative details are not required to be subject to notice and comment, the Coast Guard invites comments on desirable features of a collection system. The Coast Guard will include the collection procedure details in the Final Rule.

The Coast Guard also intends to establish penalties for failure to pay fees. A civil penalty of up to \$5,000 is authorized in 46 U.S.C. 2110. The Coast Guard proposes to treat a check returned due to insufficient funds as a late payment and to recover appropriate collection and enforcement costs in these cases. Multiple checks returned for insufficient funds could be treated as failure to pay and subject to a civil penalty. The Coast Guard also proposes to withhold additional license, certification, or merchant mariner documentation services pending payment of any outstanding fees.

*Cost methodology.* The Coast Guard developed fees in this proposal using information from workload analysis studies and costs of conducting marine licensing activities at the 17 Coast Guard RECs which provide the licensing and merchant mariner documentation services. The proposed fees are based on three basic costs.

The first cost is for the personnel and associated infrastructure necessary to provide the licensing services. These include, but are not limited to: office space; office equipment and supplies such as telephones, computers, and copiers; special training; and other personnel-related costs. Using information from a workload analysis study, hourly standard rates provided in the Coast Guard Standard Rate Instruction (COMDTINST 7310.1D), and the Coast Guard Staffing Standards Manual (COMDTINST M5312.11A); the

Coast Guard calculated this total cost to be approximately \$5.9 million.

The second cost is associated with collecting fees. Both the General User Fee Statute and 46 U.S.C. 2110 allow this cost to be included in the user fee itself. The Coast Guard is reviewing various collection procedures, and is considering accounting requirements, as well as convenience to the public. Since the Coast Guard does not presently know what collection procedures will be used, a collection cost figure of \$300,000 was estimated for the purpose of this proposed rulemaking. This amount would fund eight persons to supplement existing personnel so that each unit having an REC would have a collection clerk. When the collection procedure is chosen, the Coast Guard will adjust the \$300,000 estimate to reflect the actual cost of the collection procedure, and will adjust the proposed fees if necessary.

The third cost is for an FBI criminal record check conducted on applicants. Approximately 16,000 FBI criminal record checks are now conducted each year. For each criminal record check, the FBI charges the Coast Guard \$17, which results in an annual cost of approximately \$300,000.

The Coast Guard presently requires the FBI criminal record check on applicants for original licenses, certificates of registry, or merchant mariner documents. For each of these applicants, the \$17 charge would be added to the evaluation fee. In 46 CFR part 12, the term "original merchant mariner document" means the first document issued to an individual. An individual already holding an original merchant mariner document would not be charged for an FBI criminal record check when applying for any merchant mariner document subsequent to the original. However, a holder of a merchant mariner document applying for a license will be charged for the required FBI check for the evaluation of an original license.

*Fee categories and amounts.* The Coast Guard developed the proposed fee amounts using personnel and cost data for each phase of the licensing and documentation activities. The issuance fee for all activities was essentially the same, but examination and evaluation fees for the activities varied substantially. The Coast Guard, therefore, divided the licensing activities into three groups and the certificate of registry and documentation activities into two groups each so that fees could be set for groups of activities based on similarities of costs in each phase.

For the issuance phase, the actual preparation of the document involved



similar amounts of time and the cost of this phase was practically identical for all licenses, certificates of registry, and merchant mariner documents. The issuance fee, therefore, is the same for all categories of licenses, certificates of registry, and merchant mariner documents. The original calculated costs were rounded down to \$35 to reduce confusion and for administrative simplicity.

**License fees (part 10).** The Coast Guard proposes fees for upper level and lower level license categories and for Radio Officers. The Coast Guard is defining the terms "upper level" and "lower level" in this proposed rule as follows:

**Upper level** means a category of deck and engineer licenses established for assessment of fees. Upper level licenses are those licenses for which the requirements are listed in §§ 10.404 to 10.407 of subpart D, and §§ 10.510, 10.512, 10.514 and 10.516 of subpart E of 46 CFR part 10. In general, these include all ocean or near coastal deck and engineer licenses for inspected vessels over 1600 gross tons.

**Lower level** means a category of deck and engineer licenses established for assessment of fees. Lower level licenses are all licenses, other than those defined as upper level, for which the requirements are listed in subparts D, E and G of 46 CFR part 10. These will include original issues or upgrades for all other licenses found in 46 CFR part 10, except Radio Officers. This category also includes First Class Pilots.

The Coast Guard is proposing separate fees for a Radio Officer license. There is no requirement for a Coast Guard examination for this license, so there would be no examination fee. The evaluation fee is lower than the other two license categories because there are no service requirements to review, and part of the evaluation is conducted by the Federal Communications Commission (FCC) prior to submitting an application with the Coast Guard. Applicants for the Radio Officer license are required to present a current first or second class radiotelegraph operator license issued by the FCC. The FCC license is accepted without further evaluation by the Coast Guard. The issuance fee for a Radio Officer license, however, is the same as for other marine licenses.

The Coast Guard proposes identical fees for license renewals and for endorsements added to an existing license. Average costs for conducting evaluation, examination, and issuance phases were similar for renewal and license endorsement activities. The Coast Guard proposes that the same

evaluation, examination, and issuance fees be assessed for all license endorsement applications. If a single application requests more than one endorsement, the Coast Guard will process the application as a single activity.

**Certificates of registry (part 10).** The Coast Guard has divided the certificates of registry (listed in 46 CFR part 10) into two groups, based on differences in the evaluation required. The evaluation of an applicant for Chief Purser, Purser, and Senior Assistant Purser is similar to the evaluation required for a lower level license applicant. Junior Assistant Purser, Medical Doctor, and Professional Nurse applicants must produce documents required under § 10.807 of 46 CFR part 10 and fill out an application form. The evaluation of these applications is minimal and the Coast Guard proposes to charge no fee for these applicants. However, when an FBI check is required, the Coast Guard will assess a \$17 fee.

**Merchant mariner documents (part 12).** The Coast Guard proposes no fee for evaluation or for examination for a merchant mariner document not endorsed with a qualified rating. There is minimal processing of the application and no examination requirement prior to issuance of the document. However, when an FBI check is required, the Coast Guard will assess a \$17 fee.

The Coast Guard is proposing a fee of \$60 for evaluation and \$40 for examination for a merchant mariner document endorsed with a qualified rating. The Coast Guard is defining the term "qualified rating" as any category of Able Seaman, Qualified Member of the Engine Department, Lifeboatman, or Tankerman endorsement on a merchant mariner document. Requirements for the qualified rating endorsements are specified in §§ 12.05, 12.07, 12.10, 12.15, 12.17 or 12.20 of part 12. The Coast Guard proposes that the same evaluation, examination, and issuance fees be assessed for all qualified rating endorsement applications. If a single application requests more than one endorsement, the Coast Guard will process the application as a single activity.

#### Section by Section Analysis

##### 46 CFR part 10

The Coast Guard proposes to update the authority citation and include statutes related to user fees (i.e., 14 U.S.C. 664, 31 U.S.C. 9701, 46 U.S.C. 2110) and a statute (i.e., 46 U.S.C. 7501) which provides authority relating to issuing a duplicate license or certificate of registry.

Section 10.103—The Coast Guard proposes definitions for the terms "evaluation", "upper level" and "lower level."

Section 10.109—Proposed user fees for licensing and certification activities.

Section 10.110—This section is reserved for payment procedures which will provide instructions on how fees are to be paid.

Section 10.111—This section establishes penalties for failure to pay fees.

Section 10.205, § 10.207 and § 10.209—These sections are revised to include a cross-reference to required fees listed in § 10.109.

Section 10.217—The Coast Guard revises this section to establish a requirement for assessing additional examination fees when an applicant repeats the examination phase.

Section 10.219—A fee for reissuance of a license or certificate of registry is referenced. Paragraph (b) is also added to conform with a statute allowing free issuance of these documents if loss is due to shipwreck or other casualty. This section applies the same criteria as 46 CFR 12.02–23 for consistency between 46 CFR parts 10 and 12.

##### 46 CFR part 12

The Coast Guard proposes to revise the authority citation to include statutes related to user fees (i.e., 14 U.S.C. 664, 31 U.S.C. 9701, 46 U.S.C. 2110) and a statute (i.e., 46 U.S.C. 7501) which provides authority relating to issuing a duplicate merchant mariner document.

Section 12.01–6—The Coast Guard proposes definitions for the terms "evaluation", "original document", and "qualified rating."

Section 12.02–18—Proposed user fees for merchant mariner document activities. There is a \$10 fee assessed in 33 CFR subpart 1.25 for a duplicate continuous discharge book or copies of certificates of discharge. The Coast Guard proposes to move this fee from 33 CFR subpart 1.25 to this section, so that all fees for merchant mariner document services will be contained in part 12.

Section 12.02–18—The Coast Guard also proposes to include penalties for failure to pay fees.

Section 12.02–23—This section was amended to reference fees in § 12.02–18 and to delete outdated sections and references to 33 CFR subpart 1.25.

**33 CFR Subpart 1.25**—The Coast Guard proposes to make conforming amendments to 33 CFR subpart 1.25 and move appropriate merchant mariner documentation fees to 46 CFR 12.02–18.



## Regulatory Evaluation

The Act requires the Coast Guard to collect user fees for commercial vessel services provided under subtitle II of title 46 United States Code. These services include: Marine licensing and merchant mariner documentation, vessel documentation, commercial vessel inspections, and vessel plan review and equipment approval. Because these regulations may impact the same individuals or companies, it is necessary to briefly examine the total cost of these regulations combined. Although precise final cost impacts await further study, the total cost of direct user fees under Subtitle II is estimated to be less than \$45 million on an annual basis. The merchant marine licensing and merchant mariner documentation regulation represents only \$6 million out of the maximum estimate of \$45 million. This is well below the \$100 million threshold that would make this a major regulation under Executive Order 12291.

Even though not major, this rulemaking is significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979) and a draft Regulatory Evaluation has been prepared. This draft is available in the docket for inspection or copying where indicated under "ADDRESSES." The evaluation focused on the annualized cost of the user fees and compared them to typical salaries of merchant mariners. It also looked at the proposed user fees and compared them to other types of professional license fees. The evaluation concluded that the financial impact on the public, and individuals subject to these direct user fees, would be minimal.

A cost-benefit analysis was not prepared since this regulatory proposal is a deficit-reduction measure of the Act. Benefits to the public affected by this proposal are already captured by the issuance of the marine license, certificate of registry, or merchant mariner document which is currently provided free of charge by the Coast Guard. As such, there will be no additional benefits to the segment of public affected by this proposal. However, the regulatory proposal will have an impact on many individuals since any fee represents an impact, no matter how small.

The cost of the regulations to the individual merchant mariner varies according to the type of license or service being requested. Since licenses are renewed every five years, to estimate the annual cost to an individual the total fee amount for obtaining the license is divided by five. For example,

the proposed total fee for obtaining an original upper level license is \$347. If an upper level license holder held the new license for 5 years, the annualized cost to that person would be approximately \$70. A proposed renewal fee for this license is only \$135, so the annualized cost of a renewed license is \$27.

The U.S. Maritime Administration provided typical salaries to the Coast Guard. Persons having an upper level license and employed in the position of third assistant engineer have a monthly base wage of \$3,283 with overtime of \$2,577 a month. The third mate monthly wages are \$3,105 with overtime of \$2,437. In general persons who are employed in higher grade license positions (e.g., chief mate, chief engineer, master, etc.) earn more than a person with a third assistant engineer or third mate license. The annual user fees stated above represent an insignificant amount compared to the typical salaries of merchant marine officers.

For merchant mariner documents, the fee for obtaining a document endorsed as Able Seaman (example of highest fee item in documentation) is \$152. Currently, renewal of this document is not required. However, under the Oil Pollution Act of 1990, both existing and new merchant mariner documents will be renewed every five years. A merchant mariner may seek an additional endorsement within a few years which would also require payment of fees. If spread out over a five year period, the annualized cost would be approximately \$30. The typical salary of an Able Seaman ranges from \$1,403 (the median monthly wages of an Able Seaman on a U.S. flag deep sea tanker reported by the Bureau of Labor Statistics) to \$1,569 base monthly wages with \$1,232 in overtime. On an annualized basis, the costs to the average employed seaman should represent significantly less than one day's wages. For an active merchant mariner, this regulation will represent a small cost.

In summary, the Coast Guard's position is that the impact of these proposed regulations on the general public will be imperceptible and the impact on maritime industries of the U.S. will also be small. The impact on individual merchant mariners who are active in their trade should be minimal, based on the information collected. However, comprehensive data was not available for certain categories of licensed mariners, such as small passenger vessel operators. The Coast Guard invites public comment or data relating to the impact of the proposed fees on small passenger vessel operators

or for any other category of license holder. The Coast Guard's position is that the proposed user fees will not have a significant impact on inflation, or any one industry, geographic region, or international trade. On the other hand, there are people who have no intention of returning to sea who retain their license or merchant mariner document for convenience or other purposes. As a consequence, some of these individuals may well choose not to renew their licenses or documents. This will benefit the Coast Guard by removing these persons from our records of active mariners; saving record keeping costs and providing a more accurate indication of available merchant mariner reserves.

## Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

## Collection of Information

This proposal contains no additional collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Existing requirements are covered under Office of Management and Budget control numbers OMB 2115-0514 and OMB 2115-0111.

## Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

## Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. Section 2.B.2.1 of that instruction excludes "administrative



actions and procedural regulations and policies which clearly do not have any environmental impacts." A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "ADDRESSES."

#### List of Subjects

##### 33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Fees, Freedom of information, Penalties.

##### 46 CFR Part 10

Fees, Reporting and recordkeeping requirements, Schools, Seamen.

##### 46 CFR Part 12

Fees, Reporting and recordkeeping requirements, Seamen.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR Part 1 and 46 CFR parts 10 and 12 as follows:

#### Title 33—[Amended]

##### Subchapter A—General

#### PART 1—GENERAL PROVISIONS

1. The authority citation for subpart 1.25 continues to read as follows:

Authority: Sec. 3, 60 Stat. 238, as amended; secs. 632, 633, 63 Stat. 545; sec. 501, 65 Stat. 290; 5 U.S.C. 552; 14 U.S.C. 632, 633; Department of Transportation Order 1100.1 Mar. 31, 1967; 49 CFR 1.4(a)(2).

2. The heading of subpart 1.25 is revised to read as follows:

##### Subpart 1.25—Fees and Charges for Certain Records and Services.

##### § 1.25-40 [Amended]

3. In § 1.25-40 paragraph (b) is removed and reserved.

4. Table 1.25-40(b) is removed.

#### Title 46—[Amended]

##### Subchapter B—Merchant Marine Officers and Seamen

#### PART 10—LICENSING OF MARITIME PERSONNEL

5. The authority citation for part 10 is revised to read as follows:

Authority: 14 U.S.C. 664; 31 U.S.C. 9701; 46 U.S.C. 2103, 2110, 2103; 7101, 7501, 7701, 8105; 49 CFR 1.45; 1.46; section 10.107 also issued under the authority of 44 U.S.C. 3507.

6. Section 10.103 is amended by adding the following definitions in alphabetical order:

##### § 10.103 Definitions of terms used in this part.

\* \* \* \* \*

*Evaluation* means processing an application, from the point of receipt to approval or rejection of the application, including review of all documents and records submitted with an application as well as those obtained from public records and databases.

\* \* \* \* \*

*Lower level* means a category of deck and engineer licenses established for assessment of fees. Lower level licenses are all licenses, other than those defined as upper level, for which the requirements are listed in subparts D, E and G of this part.

\* \* \* \* \*

*Upper level* means a category of deck and engineer licenses established for assessment of fees. Upper level licenses are those licenses for which the requirements are listed in §§ 10.404 to 10.407 of subpart D of this part and §§ 10.510, 10.512, 10.514 and 10.516 of subpart E of this part.

\* \* \* \* \*

7. Section 10.109 is added to read as follows:

##### § 10.109 Fees.

(a) The following fees are required for license and registration activities in this part:

(b) For licenses: (1) Upper level: (i) For evaluation for an original license, \$87.

(ii) For evaluation for a license other than an original, including a raise in grade of a license, \$70.

(iii) For administration of an examination, including allowable retests, \$225.

(iv) For administration of a limited examination required under subpart D of this part, including allowable retests, \$55.

(v) For issuance of a license, \$35.

(2) Lower level:

(i) For evaluation for an original license, \$82.

(ii) For evaluation for a license other than an original, including a raise in grade of a license, \$65.

(iii) For administration of an examination, including allowable retests, \$30.

(iv) For administration of a limited examination required under subpart D of this part, including allowable retests, \$55.

(v) For issuance of a license, \$35.

(3) Radio Officer:

(i) For evaluation for an original license, \$62.

(ii) For evaluation for a license other than an original license, \$45.

(iii) For issuance of a license, \$35.

(c) For endorsements subsequent to the issuance of the license:

(1) For evaluation for single or multiple endorsements, \$45.

(2) For administration of examinations, including allowable retests, \$55.

(3) For issuance of single or multiple endorsements to an existing license, \$35.

(d) For renewal of a license:

(1) For evaluation for renewal of a license, \$45.

(2) For administration of an open-book exercise if required under § 10.209 of this part, \$55.

(3) For issuance of a renewed license, \$35.

(e) For Certificates of Registry:

(1) For Chief Purser, Purser, and Senior Assistant Purser:

(i) For evaluation of an unlicensed applicant for a certificate of registry, \$62.

(ii) For evaluation of an applicant who holds a license or certificate of registry issued under this part, \$45.

(iii) For issuance of a certificate of registry, \$35.

(2) For Junior Assistant Purser, Medical Doctor, and Professional Nurse:

(i) For evaluation of an unlicensed applicant for a certificate of registry, \$17.

(ii) For evaluation of an applicant who holds a license or certificate of registry issued under this part, no fee.

(iii) For issuance of a certificate of registry, \$35.

(f) For reissue of a license or certificate of registry issued in this part where a fee is required in § 10.219, \$35.

(g) For endorsements to existing license, a raise in grade of a license, an additional license, or certificate of registry where further evaluations are not required, no evaluation fee.

(h) For endorsements to existing license, a raise in grade of a license, or an additional license where further examinations are not required, no examination fee.

8. Section 10.111 is added to read as follows:

##### § 10.111 Penalty for failure to pay fees.

(a) A person that violates this subpart by failing to pay a fee or charge established under this subpart is liable to the United States Government for a civil penalty of not more than \$5,000 for each violation.

(b) The Coast Guard may assess additional charges to a person to recover collection and enforcement costs associated with delinquent payments of or failure to pay a fee. Coast Guard licensing services may also be withheld pending payment of outstanding fees.



9. Section 10.205 is amended by revising paragraph (a) to read as follows:

**§ 10.205 Requirements for original licenses and certificates of registry.**

(a) *General.* The applicant for an original license or certificate of registry shall present satisfactory documentary evidence of eligibility in respect to the requirements of this section. All applicants shall make written application on a Coast Guard furnished form and submit the evaluation fee set out in § 10.109.

\* \* \* \* \*

10. Section 10.207 is amended by revising paragraph (a) to read as follows:

**§ 10.207 Requirements for raise of grade of license.**

(a) *General.* Before any person is issued a raise of grade of license, the applicant shall present satisfactory documentary evidence of eligibility. All applicants shall make written application on a Coast Guard furnished form and submit the evaluation fee set out in § 10.109.

\* \* \* \* \*

11. Section 10.209 is amended by revising paragraph (a) to read as follows:

**§ 10.209 Requirements for renewal of license.**

(a) *General.* Except as provided in paragraph (g) of this section, applicants for renewal of licenses shall establish that they possess all of the qualifications necessary before they are issued a renewal of license. All applications must be on a Coast Guard furnished form, and accompanied by the evaluation fee set out in § 10.109. The applicant may appear in person at any Regional Examination Center listed in § 10.107 or may renew the license by mail under paragraph (e)(3) of this section. The applicant must submit the license to be renewed or a photocopy of the license. If requested, the old license will be returned to the applicant.

\* \* \* \* \*

12. Section 10.217 is amended by revising paragraphs (a) (1) and (2) to read as follows:

**§ 10.217 Examination procedures and denial of licenses.**

(a)(1) The examinations for all deck and engineer unlimited licenses are administered at periodic intervals. The examination fee in § 10.109 must be paid when the examination is scheduled. If the applicant fails three or more sections of the examination, a complete reexamination must be taken, but may

be taken during any of the scheduled exam periods. On the subsequent exam, if the applicant again fails three or more sections, at least three months must lapse before another complete examination is attempted, and a new examination fee will be required. If an applicant fails one or two sections of an examination, he or she may be retested twice on these sections during the next three months. If the applicant does not successfully complete these sections within the three month period, a complete reexamination must be taken after a lapse of at least three months from the date of the last retest, and a new examination fee will be required. The three month retest period may be extended by the OCMI if the examinee presents discharges documenting sea time which prevented the taking of a retest during the three month period. The retest period may not be extended beyond seven months from the initial examination.

(2) The scheduling of all other deck and engineer license examinations will be at the discretion of the OCMI. The examination fee in § 10.109 must be paid when the examination is scheduled. In the event of a failure, the applicant may be retested twice whenever the examination can be rescheduled with the OCMI. The applicant must be examined in all of the unsatisfactory sections of the preceding examination. If the applicant does not successfully complete all parts of the examination during a three month period from the initial test date, then after a lapse of at least two months from the date of the last retest a complete reexamination must be taken, and a new examination fee will be required.

\* \* \* \* \*

13. Section 10.219 is amended by redesignating the existing text as paragraph (a) and adding new paragraphs (b) and (c) to read as follows:

**§ 10.219 Issuance of duplicate license or certificate of registry.**

\* \* \* \* \*

(b) If a person loses a license or certificate of registry by shipwreck or other casualty, a reissue of such license or certificate or registry will be supplied free of charge. The phrase or other casualty as used in this section is interpreted to mean any damage to a ship caused by collision, explosion, tornado, wreck or flooding of the ship, such as a tidal wave or grounding of the ship on a sand bar, or a beaching of the ship on a shore or by fire or other causes in a category with these mentioned.

(c) If a person loses a license or certificate of registry otherwise than by

shipwreck or other casualty, and wants a reissue, he or she will be required to pay the appropriate fee set out in § 10.109.

**PART 12—CERTIFICATION OF SEAMEN**

14. The citation of authority for part 12 is revised to read as follows:

*Authority:* 14 U.S.C. 664; 31 U.S.C. 9701; 46 U.S.C. 2110, 7301, 7501, 7701, 8105, 10104; 49 CFR 1.46.

15. The table of contents for part 12 is amended by adding entries for §§ 12.01–6 and 12.02–18 to read as follows:

**Subpart 12.01—General**

Sec.

\* \* \* \* \*

12.01–6 Definitions of terms used in this part.

\* \* \* \* \*

**Subpart 12.02—General Requirements for Certification**

\* \* \* \* \*

12.02–18 Fees.

\* \* \* \* \*

16. Section 12.01–6 is added to read as follows:

**§ 12.01–6 Definitions of terms used in this part.**

*Evaluation* means processing an application, from the point of receipt to approval or rejection of the application, including review of all documents and records submitted with an application as well as those obtained from public records and databases.

*Original document* means the first merchant mariners document issued to any person by the Coast Guard.

*Qualified rating* means various categories of Able Seaman, Qualified Member of the Engine Department, Lifeboatman, or Tankerman endorsements on merchant mariner documents.

17. Section 12.02–18 is added to read as follows:

**§ 12.02–18 Fees.**

(a) The following fees are required for merchant mariner document activities in this part:

(1) For evaluation for an original document, (does not apply if applicant holds a license or certificate of registry issued under part 10 of this subchapter), \$17.

(2) For evaluation for a merchant mariner document endorsed with a qualified rating:

(i) For an original merchant mariner document, \$77.

(ii) For a merchant mariner document other than original, \$60.



(3) For administration of examination, \$40.

(4) For issuance of a document, \$35.

(5) For duplicate of a merchant mariner document issued in this part where a fee is required in § 12.02-23, \$35.

(6) For a duplicate continuous discharge book or copies of certificates of discharge, \$10.

(b) [Reserved.]

(c) The following apply to persons failing to pay user fees:

(1) A person violating this subpart by failing to pay a fee or charge established under this subpart is liable to the United States Government for a civil penalty of not more than \$5,000 for each violation.

(2) The Coast Guard may assess additional charges to a person to

recover collection and enforcement costs associated with delinquent payments of or failure to pay a fee. Coast Guard documentation services may also be withheld pending payment of outstanding fees.

18. Section 12.02-23 is amended by revising paragraphs (b) and (c) to read as follows:

**§ 12.02-23 Issuance of duplicate documents.**

\* \* \* \* \*

(b) If a seaman loses a continuous discharge book, or merchant mariner's document, or certificate of discharge, otherwise than by shipwreck or other casualty, and wants a reissue, he or she will be required to pay for a reissue at an amount equal to the cost of such

document or certificate to the Coast Guard as prescribed in § 12.02-18 of this part.

(c) A person entitled to duplicate merchant mariner document or record of sea service may obtain the document by applying at the nearest office of the Officer in Charge, Marine Inspection, by

(1) Completing the application form provided by the Coast Guard; and

(2) Paying the fee prescribed in § 12.02-18 of this part.

\* \* \* \* \*

Dated: June 13, 1991.

**Martin H. Daniell,**

*Vice Admiral, U.S. Coast Guard, Acting Commandant.*

[FR Doc. 91-14431 Filed 6-19-91; 8:45 am]

BILLING CODE 4910-14-M







# **federal register**

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**Thursday  
June 20, 1991**

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## **Part IV**

### **Environmental Protection Agency**

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**Registration and Agreement for TSCA  
Section 8(e) Compliance Audit Program  
Modification; Notice**



**ENVIRONMENTAL PROTECTION  
AGENCY**

[OPTS-80015B; FRL-3932-1]

**Registration and Agreement for TSCA  
Section 8(e) Compliance Audit  
Program Modification****AGENCY:** Environmental Protection  
Agency (EPA).**ACTION:** Notice.

**SUMMARY:** This Notice, pursuant to sections 15 and 16 of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 et seq., announces the availability of the TSCA section 8(e) reporting guide and modifications to EPA's TSCA Section 8(e) Compliance Audit Program and the Agreement for the TSCA Section 8(e) Compliance Audit Program ("CAP Agreement"). The modifications to the TSCA Section 8(e) Compliance Audit Program and the CAP Agreement include the extension of the registration deadline until July 1, 1991, the addition of provisions for listing of certain types of previously reportable TSCA section 8(e) information now in EPA's possession, and modification of EPA's guidance for reporting information concerning "widespread and previously unsuspected distribution in environmental media" and "emergency incidents of environmental contamination" under TSCA section 8(e).

**DATES:** The Registration period for the TSCA Section 8(e) Compliance Audit Program closes on July 1, 1991. All persons interested in registering for the TSCA Section 8(e) Compliance Audit Program must request a CAP Agreement and submit a signed CAP Agreement to EPA no later than July 1, 1991.

**ADDRESSES:** Copies of the modified CAP Agreement and the TSCA section 8(e) reporting guide may be obtained from the TSCA Assistance Information Service, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

**FOR FURTHER INFORMATION CONTACT:** David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

**SUPPLEMENTARY INFORMATION:****I. Background**

In the Federal Register of February 1, 1991 (56 FR 4128), EPA announced the opportunity to register for the TSCA

Section 8(e) Compliance Audit Program. The TSCA Section 8(e) Compliance Audit Program is a one-time voluntary compliance audit program developed to obtain outstanding TSCA section 8(e) data and foster compliance with the statutory obligations of TSCA section 8(e).

On April 26, 1991 (56 FR 19514), EPA modified the TSCA Section 8(e) Compliance Audit Program and the CAP Agreement. The modifications included extension of the registration and termination dates, the opportunity to petition EPA for a case-by-case extension of the termination date, modifications to the CAP Agreement provisions regarding admission of a violation of TSCA section 8(e) and waiver of right to a hearing, and EPA's development of a TSCA section 8(e) reporting guide.

**II. TSCA Section 8(e) Reporting Guide**

Since the April 26, 1991 modifications were announced, EPA completed development of the TSCA section 8(e) reporting guide. The guide contains useful reporting and implementation guidance and includes two major indices. The first index, which references approximately 150 section 8(e) "Status Reports," is arranged by toxicologic study type with subheadings related to section 8(e) reporting criteria. The second index is cumulative and is arranged by type of study for all initial submissions received under section 8(e) from January 1, 1977, to October 1, 1990.

There are two major objectives for presenting the guide. First, the guide makes certain information pertaining to section 8(e) reporting more accessible to members of the regulated community and others. Second, the guide provides reference to both general and specific examples of submitted information as well as EPA's comments regarding such submissions. The examples are intended to help persons who are subject to section 8(e) understand better the types of information that should be submitted to EPA under this important mandatory chemical hazard/risk information reporting provision of TSCA.

Most of the guide is presented in a basic question and answer format reflecting primarily the most common questions asked about section 8(e) of TSCA. The guide also contains EPA's comments regarding the TSCA section 8(e)-applicability/reportability of a number of toxicologic "case studies" provided to the Agency by the Chemical Manufacturers Association (CMA).

Copies of the TSCA section 8(e) reporting guide may be obtained from the TSCA Assistance Information Service, Environmental Assistance

Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

**III. Modifications to the TSCA Section  
8(e) Compliance Audit Program and the  
CAP Agreement****A. Registration Requirements**

The registration deadline/audit commencement date has been extended for approximately two weeks to July 1, 1991. Thus, Units I.B and D of the CAP Agreement have been modified to read as follows:

**B.** To register for the TSCA Section 8(e) Compliance Audit Program, the Regulatee must, no later than July 1, 1991, sign and return this CAP Agreement by certified mail-return receipt requested to. . .

**D.** The TSCA Section 8(e) Compliance Audit Program shall commence no later than July 1, 1991.

No other modifications to the "Registration Requirements" portion of the CAP Agreement have been made.

**B. Terms of Agreement—TSCA Section  
8(e) Compliance Audit Program and  
Civil Penalties Concerning Late  
Reporters**

EPA has received inquiries regarding instances of late reporting of section 8(e) information when such studies or reports were (1) received by the Office of Toxic Substances (OTS) on a "For Your Information" ("FYI") basis and included in the formal OTS "FYI" filing system, or (2) submitted to EPA pursuant to a mandatory reporting obligation under a statute administered by EPA. By late reporting, EPA is referring to information received beyond the 15 working days deadline as set forth in Part IV of EPA's March 16, 1978, "Statement of Interpretation and Enforcement Policy; Notification of Substantial Risk" (43 FR 11110) ("TSCA Section 8(e) Policy Statement"). After evaluation of the issue, EPA has determined that a reduced penalty scheme is appropriate for instances of late reporting of section 8(e) information when the studies or reports were (1) submitted in writing to and received by EPA prior to June 18, 1991, pursuant to a mandatory reporting obligation under TSCA or another EPA-administered statute, or (2) received by OTS on an "FYI" basis and included in the formal OTS "FYI" filing system, prior to June 18, 1991. This approach meets EPA's TSCA Section 8(e) Compliance Audit Program goal of obtaining, in the context of an enforcement initiative, outstanding section 8(e) information. Instead of



resubmitting copies of these types of studies or reports, the information may simply be listed under the TSCA Section 8(e) Compliance Audit Program and identified by cover letter. A \$5,000 stipulated civil penalty will be assessed for each study or report listed. Thus, Unit II.B.1.c has been added to the CAP Agreement to read as follows:

c. Data that would have been reportable under TSCA Section 8(e) when initially obtained by the Regulatee, and that subsequent to the section 8(e) reporting deadline (and before June 18, 1991), were (i) submitted in writing to and received by EPA pursuant to a mandatory reporting requirement under TSCA or another statute administered by EPA, or (ii) received by the Office of Toxic Substances (OTS) on a "For Your Information" ("FYI") basis and included in the formal OTS "FYI" filing system: The Regulatee will list the study or report pursuant to Unit II.B.3 of this CAP Agreement. Only information that meets the requirements of Unit II.B.1.c is eligible for this listing provision.

Unit II.B.3 has been added to the CAP Agreement to read as follows:

3. The following provisions shall govern the list required to be submitted under Unit II.B.1.c of this CAP Agreement:

a. For each study or report listed, the listing must comply with the requirements of Unit II.C of this CAP Agreement, must describe the date of the submission and (i) the mandatory reporting requirement of TSCA or another EPA-administered statute under which the study or report was submitted, or (ii) the Office of Toxic Substances "FYI" filing system number for the submission. Within 360 days after submission of the list, EPA may request the Regulatee to submit any of the listed information in order to determine if the Regulatee correctly listed rather than submitted the study or report.

b. The Regulatee agrees to pay the following stipulated civil penalty for information listed under this audit as data that would have been reportable under TSCA Section 8(e) when initially obtained by the Regulatee, and that subsequent to the section 8(e) reporting deadline as specified in Part IV of the TSCA Section 8(e) Policy Statement (and before June 18, 1991), were (i) submitted in writing to and received by EPA pursuant to a mandatory reporting requirement under TSCA or another statute administered by EPA, or (ii) received by the Office of Toxic Substances (OTS) on an "FYI" basis and included in the formal OTS "FYI" filing system: \$5,000 per study or report.

#### *C. Additions to the TSCA Section 8(e) Reporting Guide*

In response to a written request from the Chemical Manufacturers Association (CMA) for additional guidance on the section 8(e)

reportability of certain types of health effects and environmental effects/release information, EPA agreed to perform an expedited review of a limited number of case studies submitted by CMA. The Office of Pesticides and Toxic Substances (OPTS) established a panel of EPA toxicologists, biologists, chemists, medical and public health experts, environmental scientists, TSCA policy staff, and legal and enforcement staff to perform an expedited review of the case studies which were submitted by CMA. EPA reviewed the case studies involving reportability of health effects information, and provides an analysis of the toxicologic significance and TSCA section 8(e)-reportability of the health effects case studies in the TSCA section 8(e) reporting guide described above and referenced in the CAP Agreement.

#### *D. Reporting of Information Referenced in Parts V(b)(1) and V(c) of EPA's Section 8(e) Policy Statement*

TSCA section 8(e) requires reporting of information which reasonably supports the conclusion that a chemical substance or mixture presents a substantial risk of injury to the environment. EPA provided guidance on how persons could fulfill their section 8(e) reporting obligations in the TSCA Section 8(e) Policy Statement. However, in reviewing this guidance in connection with the TSCA Section 8(e) Compliance Audit Program, EPA has determined that Part V(b)(1) ("widespread and previously unsuspected distribution in environmental media") and Part V(c) ("emergency incidents of environmental contamination") of the TSCA Section 8(e) Policy Statement need additional clarification and that possible misinterpretation with regard to the guidance in these sections could lead to overreporting under the TSCA Section 8(e) Compliance Audit Program.

Therefore, EPA plans to initiate a review of the reporting of information on widespread environmental distribution and emergency incidents of environmental contamination under TSCA section 8(e) and other Federal statutes in order to determine what information of these types should continue to be considered for submittal under section 8(e). The review may involve discussions with other EPA program offices, EPA Regional offices, other Federal Agencies, State Governments, members of the regulated industry, environmental interest groups,

and others. All interested persons will have the opportunity to comment on any proposed revisions to Parts V(b)(1) and V(c) of the TSCA Section 8(e) Policy Statement that result from this review.

In the interim, regulatees auditing their files for reportable environmental risk information under the TSCA Section 8(e) Compliance Audit Program should be guided by the statutory language of section 8(e) and Part V(b)(2) through (b)(5) of EPA's TSCA Section 8(e) Policy Statement. In assessing whether information or studies involving widespread and previous unsuspected environmental distribution, emergency incidents of environmental contamination, or other previously unknown situations involving significant environmental contamination should be submitted under the TSCA Section 8(e) Compliance Audit Program, or under section 8(e) in general, regulatees should make a reasonable judgement whether such information meets the statutory standards of TSCA section 8(e) instead of relying on Parts V(b)(1) or V(c) of the TSCA Section 8(e) Policy Statement. Even though EPA is suspending the applicability of Parts V(b)(1) and V(c) of the TSCA Section 8(e) Policy Statement, persons are still responsible under TSCA section 8(e) to report information that reasonably supports a conclusion of substantial risk of injury to the environment. This is a continuing statutory obligation. Thus, to reflect this change, Unit II.B.1 of the CAP Agreement has been modified to read as follows:

1. In conducting the TSCA Section 8(e) Compliance Audit Program, the Regulatee shall follow the statutory language of TSCA section 8(e) and EPA's guidance on section 8(e) in the March 16, 1978, "Statement of Interpretation and Enforcement Policy: Notification of Substantial Risk" (43 FR 11110) ("TSCA Section 8(e) Policy Statement"), with the exception of Parts V(b)(1) and V(c) of the TSCA Section 8(e) Policy Statement, to determine whether the reviewed study or report is: . . .

No other modifications to the "Terms of Agreement" provisions of the CAP Agreement have been made.

#### **IV. Conclusion**

EPA believes that the actions described above emphasize the Agency's strong commitment to making



the TSCA Section 8(e) Compliance Audit Program a successful initiative. EPA believes that providing the section 8(e) reporting guide as well as the results of the Agency's review of several toxicologic case studies will enhance understanding of the TSCA section 8(e) program, and assist the regulated community as they participate in the TSCA Section 8(e) Compliance Audit Program. Any further information regarding this Compliance Audit Program or the CAP Agreement may be obtained from the contact person noted above.

Dated: June 18, 1991.

**Victor J. Kimm,**

*Acting Assistant Administrator for Pesticides and Toxic Substances.*

[FR Doc. 91-14833 Filed 6-19-91; 8:45 am]

BILLING CODE 6560-50-F



# **Federal Register**

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**Thursday  
June 20, 1991**

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## **Part V**

### **The President**

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**Executive Order 12766—European Bank  
for Reconstruction and Development and  
European Space Agency**

**Memorandum of June 10, 1991—  
Delegation of Authority Regarding Report  
to the Speaker of the House of  
Representatives and the President Pro  
Tempore of the Senate on Humanitarian  
and Development Assistance Priorities of  
the Cambodian People**



Thursday  
June 20, 1951

Part V

## The President

Executive Order 12105—European Bank  
for Reconstruction and Development and  
European Space Agency

Memorandum of June 10, 1951—  
Delegation of Authority Regarding Report  
to the Speaker of the House of  
Representatives and the President  
of the Senate on Reconstruction  
and Development Assistance Policies of  
the American People



# Presidential Documents

Title 3—

Executive Order 12766 of June 18, 1991

The President

## European Bank for Reconstruction and Development and European Space Agency

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Organizations Immunities Act (22 U.S.C. 288), Reorganization Plan No. 4 of 1965 (5 U.S.C. App.), the European Bank for Reconstruction and Development Act, as incorporated in section 562 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513, 104 Stat. 1979, 2034) (the "Act"), and Executive Order No. 11760, and in order to facilitate U.S. participation in the European Bank for Reconstruction and Development and the European Space Agency, it is hereby ordered as follows:

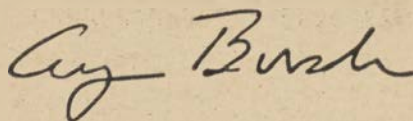
**Section 1.** The European Bank for Reconstruction and Development, in which the United States participates pursuant to the Act and the Agreement Establishing the European Bank for Reconstruction and Development (29 International Legal Materials 1077 (1990)) (the "Agreement"), is hereby designated a public international organization entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act. This designation is not intended to abridge in any respect the privileges and immunities which such organization has acquired or may acquire by treaty, international agreement, or congressional action. This designation shall not affect in any way the applicability of Chapter VIII of the Agreement.

**Sec. 2.** Executive Order No. 11269, as amended, is further amended by deleting "and Multilateral Investment Guarantee Agency" and inserting in lieu thereof "Multilateral Investment Guarantee Agency, and European Bank for Reconstruction and Development" in sections 2(c), 3(d), and 7, respectively.

**Sec. 3.** Executive Order No. 11760 of January 11, 1974, is amended by striking out "European Space Research Organization" and inserting in lieu thereof "European Space Agency." Substituting the European Space Agency for the European Space Research Organization is not intended to abridge in any respect privileges, exemptions, or immunities that the European Space Agency may have acquired or may acquire by treaty, international agreement, or congressional action.

**Sec. 4.** Section 3 of this order shall be deemed effective as of November 22, 1983.

THE WHITE HOUSE,  
June 18, 1991.









## Presidential Documents

Memorandum of June 10, 1991

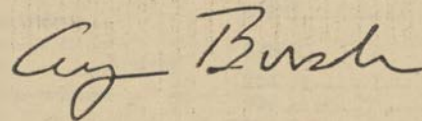
### Delegation of Authority Regarding Report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate on Humanitarian and Development Assistance Priorities of the Cambodian People

Memorandum for the Secretary of State

By virtue of the authority vested in me by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of State the functions vested in me by section 562A(d)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513), relating to the submission of a report to the Congress regarding humanitarian and development assistance priorities of the Cambodian people. The authority delegated by this memorandum may be further redelegated within the Department of State.

You are authorized and directed to publish this memorandum in the Federal Register.

THE WHITE HOUSE,  
Washington, June 10, 1991.



[FR Doc. 91-14909

Filed 6-18-91; 4:50 pm]

Billing code 3195-01-M



# Presidential Documents

Document of 1961

Statement of President Kennedy  
on the subject of the  
the state of the Union  
of the President  
of the United States

Statement of the President

On the subject of the  
the state of the Union  
of the President  
of the United States

Statement of the President

John F. Kennedy

THE WHITE HOUSE  
WASHINGTON, D.C. 20503

1961  
1961  
1961



# Reader Aids

Federal Register

Vol. 56, No. 119

Thursday, June 20, 1991

## INFORMATION AND ASSISTANCE

### Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-3447

### Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

### Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

### Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

### The United States Government Manual

General information	523-5230
---------------------	----------

### Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

## CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

### 3 CFR

#### Proclamations:

6179 (See Proc. 6301)	26887
6300	25609
6301	26887
6302	27189
6303	27397
6304	27399
6305	27685
6306	27885

#### Executive Orders:

11157 (Amended by EO 12762)	25993
11269 (Amended by 12766)	28463
11760 (Amended by 12766)	28463
12748 (See 12764)	26587
12762	25993
12763	25994
12764	26587
12765	27401
12766	28463

#### Administrative Orders:

Memorandums:	
June 10, 1991	28465
Presidential Determinations:	
No. 91-37 of May 29, 1991	25611
No. 91-39 of June 3, 1991	27187

### 5 CFR

572	28307
890	25995
1620	26722

#### Proposed Rules:

351	27695
581	28350
930	26942

### 7 CFR

1c	28003
2	25997, 27889
30	25613
46	26759
52	27898
56	25721
301	26191
354	26895
777	25345
921	28307
922	28307
923	28307
924	28307
948	26895
953	26895
958	26895
1230	26589

1421	26853, 28033
1435	28034
1477	26761
1493	25998
1494	25005, 26323, 28037
1610	26590
1700	25348
1735	26590
1737	26590
1744	26590
1930	28037
1944	28309
1945	28310
1948	28037
1951	25350, 28037
1965	25350, 28037

#### Proposed Rules:

28	27999
801	26944
1005	25375
1427	27902
1435	26777
1600	28119
1924	28350
1980	28351
3403	25600

### 8 CFR

204	28311
209	26897
214	26016
245	28311
251	26016
258	26016
280	26019

#### Proposed Rules:

214	27211
274a	27211

### 9 CFR

#### Proposed Rules:

11	26043
166	26898

### 10 CFR

745	28003
-----	-------

#### Proposed Rules:

20	26945
35	26945
73	26782

### 12 CFR

25	26899
7	28314
23	28314
228	26901
265	25614
345	26903
563e	26904
1609	25352

#### Proposed Rules:

19	27790
----	-------

## FEDERAL REGISTER PAGES AND DATES, JUNE

25005-25344	3
25345-25608	4
25609-25992	5
25993-26322	6
26325-26588	7
26589-26758	10
26759-26894	11
26895-27188	12
27189-27402	13
27403-27686	14
27687-27888	17
27889-28032	18
28033-28306	19
28307-28466	20



207.....	25641
220.....	25641
263.....	27790
308.....	27790
508.....	27790
509.....	27790
512.....	27790
513.....	27790
747.....	27790
936.....	26346
1507.....	26352

**13 CFR****Proposed Rules:**

122.....	25378
----------	-------

**14 CFR**

39.....	25021, 25353-25362, 26020-26024, 26325, 26601- 26612, 26762, 26906-26908, 27403-27559, 27687, 27688, 28042, 28318
61.....	27160
63.....	27160
65.....	27160
71.....	26025, 26026, 26719, 27191, 28043-28047
73.....	26026
75.....	26326
97.....	26027, 27404, 27689
108.....	27866
121.....	25450
125.....	25450
127.....	25450
129.....	25450
135.....	25450
1214.....	27899
1215.....	28048
1230.....	28003

**Proposed Rules:**

Ch. I.....	28122
39.....	25051, 25052, 25379, 25380, 26621-26624, 27467, 27468
71.....	25381, 25382, 26025, 26355, 26625, 26626, 27217, 27654, 28122
73.....	26356
75.....	25382, 26627
91.....	27654
201.....	27696
202.....	27696
204.....	27696
291.....	27696
302.....	27696
399.....	27469

**15 CFR**

27.....	28003
295.....	25363
775.....	25022
776.....	25022
779.....	25022
785.....	25022
799.....	25022, 25023

**Proposed Rules:**

771.....	25054
777.....	25054, 27298

**16 CFR**

305.....	26763
1028.....	28003
1211.....	28050

**Proposed Rules:**

1500.....	25721
-----------	-------

**17 CFR**

4.....	28054
200.....	27194
240.....	28320
270.....	26028

**Proposed Rules:**

200.....	27582
210.....	27562
229.....	27612
230.....	27564-27582
239.....	27564-27582
240.....	25056, 27562-27612
249.....	27612
260.....	27582

**18 CFR**

2.....	27194
--------	-------

**19 CFR**

4.....	27559
24.....	25721
162.....	25363
<b>Proposed Rules:</b>	
162.....	25383

**20 CFR**

323.....	26327
404.....	26030
416.....	25446

**21 CFR**

5.....	25024
14.....	26613
50.....	28025
56.....	28025
177.....	25446
510.....	27196
630.....	27786
1306.....	25025
<b>Proposed Rules:</b>	
155.....	25385
201.....	26946
206.....	27999
207.....	27999
211.....	26719
314.....	27999
331.....	26946
1310.....	27471
1313.....	27472

**22 CFR**

89.....	26853
225.....	28003
521.....	25027

**Proposed Rules:**

43.....	25386
---------	-------

**23 CFR****Proposed Rules:**

650.....	25392
----------	-------

**24 CFR**

60.....	28003
203.....	27690, 27900
235.....	27662
750.....	27070, 27104
885.....	27104
889.....	27104
890.....	27070

**Proposed Rules:**

905.....	26628
965.....	26628

**26 CFR**

1.....	28056
--------	-------

31.....	26191
42.....	25364
602.....	25364, 28056
701.....	27999

**Proposed Rules:**

1.....	27707, 27907, 27927, 28123, 28124
156.....	26631
301.....	27928

**28 CFR**

0.....	25628
46.....	28003
51.....	26032

**Proposed Rules:**

20.....	25642
---------	-------

**29 CFR**

1910.....	26909
1949.....	28076
2619.....	27405
2676.....	27406

**Proposed Rules:**

578.....	25168
2550.....	26045

**30 CFR**

220.....	26032
700.....	25036
722.....	28442
723.....	28442
724.....	28442
840.....	25036
842.....	25036
843.....	28442
845.....	28442
846.....	28442
904.....	27407
913.....	26191
935.....	26032

**Proposed Rules:**

250.....	27929
916.....	27473
946.....	27708

**31 CFR**

570.....	26034
----------	-------

**32 CFR**

Ch. I.....	28003
169.....	28003
199.....	25039
219.....	28003
286i.....	26613
295.....	26613
552.....	25039
286b.....	25629
636.....	28077
2003.....	27559, 27901

**Proposed Rules:**

156.....	26634
199.....	26635, 26946

**33 CFR**

100.....	25042, 26324-26335, 26764
117.....	25369, 26765, 26909, 27692
165.....	25630-25632, 26766- 26768, 27409

**Proposed Rules:**

1.....	28448
100.....	26357
117.....	25397, 26358, 26792, 26948, 27708
241.....	27218

242.....	25643
----------	-------

**34 CFR**

97.....	28003
350.....	28003
356.....	28029

**Proposed Rules:**

318.....	27474
325.....	26856
328.....	27481

**36 CFR**

251.....	27410
293.....	27410
1222.....	26336

**37 CFR**

201.....	27196
202.....	27196

**Proposed Rules:**

1.....	26949, 27999
2.....	27999
3.....	27999

**38 CFR**

1.....	25043, 28226
3.....	25043, 28226
16.....	28003
21.....	25045, 26035

**Proposed Rules:**

3.....	25399, 25645
8.....	25649
13.....	25399
21.....	26951

**39 CFR****Proposed Rules:**

111.....	25059, 26641
----------	--------------

**40 CFR**

26.....	28003
52.....	27197, 28086, 28322
60.....	28322
86.....	25724
141.....	26460
142.....	25046, 26460
180.....	26911-26915, 28087, 28325, 28326
185.....	26915
261.....	27300-27332
264.....	27332
265.....	27332
271.....	28088
281.....	28089
721.....	25986

**Proposed Rules:**

51.....	27630
52.....	26359, 27630
60.....	27630
63.....	27338
156.....	27484
170.....	27484, 27485
228.....	26641
281.....	28353
744.....	27222
761.....	26738

**42 CFR**

412.....	25458
418.....	26916

**Proposed Rules:**

405.....	25792, 28353
412.....	25178
413.....	25178
415.....	25792



473..... 28353

**43 CFR****Public Land Orders:**6849 (Corrected by  
P.L.O. 6862)..... 27692

6861..... 26035

6862..... 27692

6863..... 27693

**44 CFR**

64..... 26337, 28090

65..... 28092, 28093

67..... 28094, 28328

**Proposed Rules:**

62..... 282260

67..... 26954, 28124, 28127

**45 CFR**

46..... 28003, 28032

57..... 25446

98..... 26240

99..... 26240

233..... 27419

**Proposed Rules:**

205..... 27709

304..... 27723

**46 CFR****Proposed Rules:**

10..... 28448

12..... 28448

504..... 28128

515..... 27485

560..... 27485

572..... 27485

580..... 28361

581..... 28361

586..... 26361

**47 CFR**

1..... 25633, 25635

2..... 26616

15..... 27200

36..... 27421

43..... 25370

64..... 25370, 25721

73..... 25635, 26298, 26338-

26339, 26919-26921, 27422-

27424, 27693, 27694, 28096

74..... 28096

90..... 25639, 26719

97..... 25372

**Proposed Rules:**

Ch. I..... 25400, 26644

22..... 26967

73..... 26365-26368, 26968,

27725, 28128, 28129

80..... 28130

90..... 25650

**48 CFR**

52..... 25446, 27298

243..... 28345

249..... 28345

252..... 28345

519..... 26769, 26921

705..... 27207

706..... 27207

719..... 27207

726..... 27207

752..... 27207

915..... 28099

917..... 28099

950..... 28099

970..... 28099

2801..... 26340

2803..... 26340

2804..... 26340

2805..... 26340

2806..... 26340

2815..... 26340

2819..... 26340

2870..... 26340

**Proposed Rules:**

209..... 26645

232..... 25446

242..... 26645

243..... 26719

249..... 26719

252..... 25446, 26719

Ch. 99..... 26968

**49 CFR**

1..... 25050

11..... 28003

107..... 27872

173..... 27872

178..... 27872

180..... 27872

195..... 26922

240..... 28228

571..... 26036, 26039, 26343,

26927, 27427

575..... 26769

1043..... 28110

1084..... 28110

**Proposed Rules:**

24..... 28302

212..... 27222

218..... 27931

225..... 25651

229..... 27931

245..... 26368

390..... 28130

571..... 26046, 26368

840..... 28132

1011..... 26370-26372

1160..... 26370-26372

1181..... 26370-26372

1186..... 26370-26372

**50 CFR**

17..... 27438, 28345

18..... 27443

32..... 26620

630..... 26934, 28349

651..... 26774, 27786

658..... 25374

661..... 26774

672..... 27465, 28112

675..... 26620, 28112

683..... 27298

685..... 27558, 28116

**Proposed Rules:**

17..... 26373, 26969-26971,

27485, 27938, 28362

23..... 25447

32..... 28133

33..... 28133

215..... 25066

650..... 27225

651..... 28226

**LIST OF PUBLIC LAWS****Last List June 14, 1991**

This is a continuing list of public bills from the current session of Congress which

have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202-523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-275-3030).

**H.R. 232/Pub. L. 102-54**

To amend title 38, United States Code, with respect to veterans programs for housing and memorial affairs, and for other purposes. (June 13, 1991; 105 Stat. 267; 23 pages) Price: \$1.00

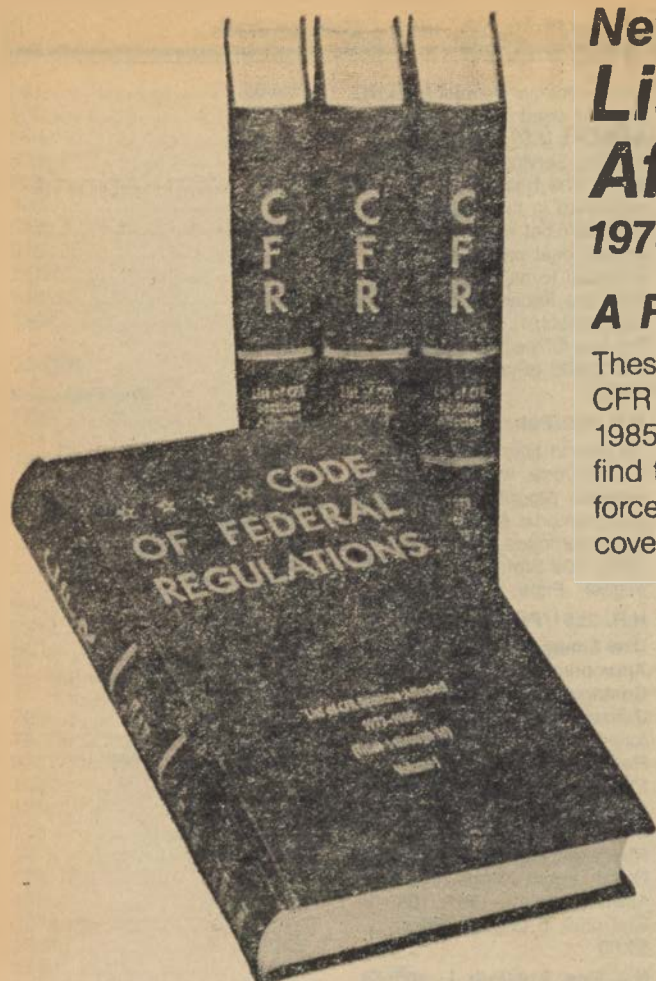
**H.R. 2251/Pub. L. 102-55**

Dire Emergency Supplemental Appropriations From Contributions of Foreign Governments And/Or Interest for Humanitarian Assistance to Refugees and Displaced Persons In and Around Iraq as a Result of the Recent Invasion of Kuwait and for Peacekeeping Activities and Other Urgent Needs Act of 1991. (June 13, 1991; 105 Stat. 290; 6 pages) Price: \$1.00

**H.J. Res. 219/Pub. L. 102-56**

To designate the week beginning June 9, 1991, as "National Scleroderma Awareness Week". (June 13, 1991; 105 Stat. 296; 1 page) Price: \$1.00





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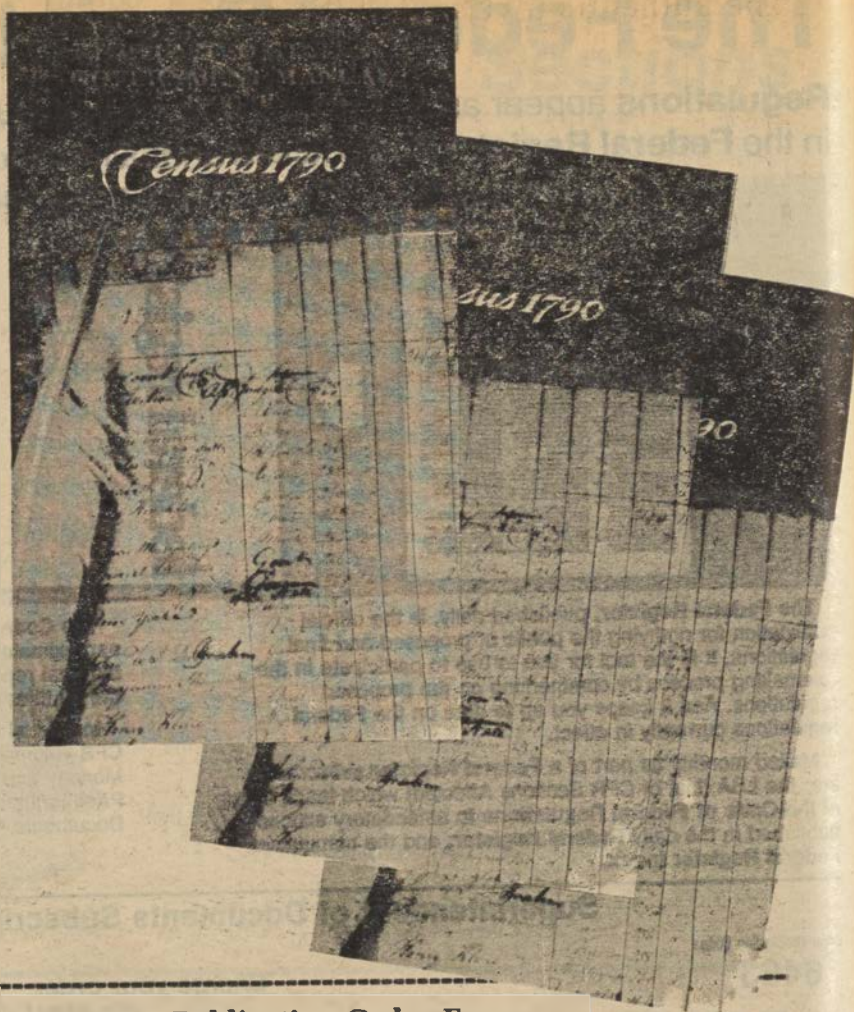
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